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S. HRG. 99-983

YAKIMA RIVER BASIN WATER ENHANCEMENT PROJECT

HEARING

BEFORE THE

SUBCOMMITTEE ON WATER AND POWER

OF THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

NINETY-NINTH CONGRESS

SECOND SESSION

ON

S. 2519

A BILL TO AUTHORIZE CERTAIN ELEMENTS OF THE YAKIMA RIVER BASIN WATER ENHANCEMENT PROJECT, AND FOR OTHER PURPOSES

YAKIMA, WA, JULY 1, 1986

Printed for the use of the
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CONTENTS

Page

S. 2519 4

STATEMENTS

Barr, Hon. Scott, Washington State senator 15
Baugher, Hon. Forrest, Washington State House of Representatives 17
Burke, Mary, chairman, Subcommittee for Water Rights and Resources, National Cattlemen's Association 114
Chasco, Paul, secretary-manager, Kennewick Irrigation District 101
Doty, Hon. Shirley, Washington State House of Representatives 17
Dunning, Jeff, superintendent, Ellensburg Water Co 111
Evans, Hon. Daniel J., a U.S. Senator from the State of Washington 1
George, Ann, assistant administrator, Washington Cattlemen's Association, Inc 130
George, Levi, chairman, Fish and Wildlife Committee, Tribal Council, Yakima Indian Nation 80
Gorton, Hon. Slade, a U.S. Senator from the State of Washington 13
Hansen, Hon. Frank, Washington State senator 18
Hilde, Jerry, Selah-Moxee Irrigation District 110
Hildebrand, Lou, project engineer, Wapato Irrigation Project 89
Johnson, Phil, the Cascadians 145
Jones, Robert, president, Washington State Farm Bureau 26
Keys, John, Acting Regional Director, Pacific Northwest Region, U.S. Bureau of Reclamation, accompanied by Larry Vinsonhaler, Regional Planning Officer, Pacific Northwest Region, U.S. Bureau of Reclamation; and Ray Nelson 30
Lee, Kai, and Tom Trulove, Northwest Power Planning Council, as presented by Rick Applegate 23
Lewis, Hon. Jim, Washington State House of Representatives 23
Moore, Mike 131
Morrison, Hon. Sid, a U.S. Representative from the State of Washington 12
Newhouse, Hon. Irv, Washington State senator 14
Olney, Robert, chairman, Irrigation Committee, Tribal Council, Yakima Indian Nation 77
Ortman, David E., conservation representative, Northwest office, Friends of the Earth 137
Poulsen, John 132
Pringle, John, president, Yakima River Basin Association of Irrigation Districts 86
Rayburn, Hon. Margaret, Washington State House of Representatives 16
Riniker, Andrea Beatty, director, Washington State Department of Ecology 58
Sampson, Melvin, Tribal Council chairman, Yakima Indian Nation 76
Strain, Loren, Citizens for Responsible Water Projects 147
Trull, James W., manager, Sunnyside Division Board of Control and the Sunnyside Valley Irrigation District 87
Van Gundy, Ron, manager, Roza Irrigation District 98
Wayland, Jack S., director, Washington State Department of Game, as presented by Gale Blomstrom 70
Williams, Dale, president, Union Gap Irrigation District 112

APPENDIX

Additional material submitted for the record 153

YAKIMA RIVER BASIN WATER ENHANCEMENT PROJECT

TUESDAY, JULY 1, 1986

U.S. SENATE,
SUBCOMMITTEE ON WATER AND POWER,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Yakima, WA.

The subcommittee met, pursuant to notice, in the Student Union Building of Yakima College, Yakima, WA, Hon. Daniel J. Evans, presiding.

Present: Senator Evans and Congressman Morrison.

Also present: Russell R. Brown, professional staff member; and William B. Conway, counsel for the minority.

OPENING STATEMENT OF HON. DANIEL J. EVANS, A U.S. SENATOR FROM THE STATE OF WASHINGTON

Senator EVANS. This is a hearing of the Water and Power Subcommittee of the U.S. Senate Energy and Natural Resources Committee.

I'm not sure whether I'm starting a few minutes early, or almost a half an hour late. The original scheduled time was 9 o'clock. It was changed just a little while ago in order to allow us to get to the press. I guess we all know that television and the press runs everything in this country, and they have the priority to start with.

I'm presiding today on behalf of Senator Frank Murkowski from Alaska, who is chairman of the subcommittee.

I'm delighted to have Representative Sid Morrison join with me during this hearing.

The purpose of the hearing is to receive testimony on the S. 2519 bill, which will authorize certain elements of the proposed Yakima River Basin project.

Senator Gorton and I introduced S. 2519 on June 5 of this year, and on the same date, Congressman Morrision introduced companion legislation in the House of Representatives, the number escapes us at the moment.

There are several components to this legislation.

The first three are intended to supplement water supplies to presently irrigated lands. Construction of a pipeline between Keechelus and Kachess Lakes will increase the amount of water available within the so-called TWSA to be allocated according to the 1945 Consent Decree. Furthermore, construction of the Keechelus-Kachess pipeline will result in reduced irrigation releases on the critical Keechelus-Easton River reaches of the Yakima River.

Another project authorized by this bill is the construction of the system improvements on the Wapato Indian projects. Water saved through the system improvement will be available for use on the Yakima Indian Reservation to supplement existing supplies on the Wapato Indian projects, or for fish and wildlife purposed on the reservations.

Finally, the bill authorizes a number of projects to increase instream flows for fish and wildlife throughout the Yakima Basin.

System improvements on the Sunnyside division will result in reduced diversion at Sunnyside Dam and reduced irrigation releases as necessary to meet diversion need.

Subordination of the Roza-Chandler powerplants will reduce the diversion and instream flows in critical reaches on the Yakima River.

This legislation is unique in several respects. First, the bill will represent a consensus, and I believe it represents a consensus, at least among user groups, to further conserve and develop, where appropriate, the water resources of the Yakima River.

Second, it proves that nonstorage measures can be developed to reduce diversion needed for irrigation.

Third, it demonstrates the commitment of non-Federal participants in the Yakima enhancement project to contribute a substantial portion of the costs to the Federal reclamation project.

For these reasons I heartily endorse the Project and commend those who work together to produce it.

The early implementation of the proposal represents the second step in a process of developing a physical solution to the water supply problems of the River Basin.

The first step was the construction of fish passage facilities at existing irrigation diversions on the Yakima River. These facilities will be completed in the near future.

The final step will be the construction of a storage facility somewhere in the Yakima Basin. Increasing efficiency is the key to a continuation of the Federal Reclamation Program. In the case of the Yakima River system, however, increasing the efficiency is probably not enough.

Much of the reduced demand resulting from the project from the project authorized by this legislation occurred during times of the year when water normally is spilled. Consequently, much of the efficiency these measures create will not be realized without additional storage. Increased storage will be necessary even after construction of the improvements this bill will authorize.

We must continue in our efforts to select the best plan for this additional storage.

I believe the early implementation proposal is an accomplishment resulting from the enormous cooperation of many varied interests. The development of this package of nonstorage elements of the Yakima enhancement project will help assure delivery of water for one of the Nation's most productive agricultural areas, and will help to restore an anadromous fishery of importance to the Pacific Northwest and to the Nation.

I will work with Senator Gorton and Congressman Morrison to achieve passage of this legislation at the earliest possible date.

In the meantime, I look forward to hearing from witnesses today on how we might improve, modify, or change the bill, as it has been introduced, to make it an even better and potentially more passable piece of legislation.

Let me now, just before we proceed with any of the witnesses, take care of a couple of housekeeping matters.

In the back of the room, there is a sign-up sheet to receive a copy of the hearing record when it is printed.

Also, each witness will be asked to fill out a witness address card to be given to the staff upon completion of your testimony or at the end of the hearing.

The hearing record will remain open for 2 weeks for those of you who may wish to submit additional materials for the record. Written materials may be sent to the Subcommittee on Water and Power, Senate Committee on Energy and Natural Resources, room SB 358, Washington, DC, 20510; and that address will be available at the back of the room.

And, finally, the text of S. 2519 will appear in the record at the conclusion of my remarks. So when the record is concluded, we will have the witnesses material, the questions, the bill itself, and the opening remarks all together in one source.

With that, let met first recognize my long-term colleague, back to the days we served in the Washington State House of Represenatives, now a Member of Congress from the Fourth District, your Congressman here in Yakima, the Honorable Sid Morrison.

[The text of S. 2519 follows:]

II

99TH CONGRESS
2D SESSION

S. 2519

To authorize certain elements of the Yakima River Basin Water Enhancement Project, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 5 (legislative day, JUNE 2), 1986

Mr. EVANS (for himself and Mr. GORTON) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To authorize certain elements of the Yakima River Basin Water Enhancement Project, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) for purposes of protection and enhancement of fish and wildlife, irrigation, and water conservation, the Secretary of the Interior (hereafter, the Secretary) acting pursuant to Federal reclamation law (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof and supplementary thereto) and consistent with the Pacific Northwest Electric Power Planning and Conservation Act (94 Stat. 2697) is authorized

to design, construct, operate and maintain the following facilities:

(1) modification of existing radial gates at Cle Elum Dam; a Kachess Lake to Keechelus Lake pipeline; a reregulating reservoir to increase water-use efficiency of the Roza Division; facilities to automate and otherwise improve canal operations of the Sunnyside Division; and

(2) facilities to automate and otherwise improve canal operations of the Wapato Indian Project.

(b) The Secretary is authorized to accept funds from any entity, public or private, to design, construct, operate, and maintain facilities authorized by this Act.

SEC. 2. The facilities authorized by this Act and fish passage facilities authorized by the Acts of August 17, 1984 (98 Stat. 1933) and August 22, 1984 (98 Stat. 1369) shall be considered features of the Yakima Enhancement Project (hereafter, Yakima Enhancement Project), if such project is authorized, and their operation and maintenance shall be integrated and coordinated with other features of the existing Yakima Project. The Secretary, as he or she deems appropriate, shall enter into agreements to provide for the operation and maintenance of such facilities. The Secretary shall insure that such facilities are operated in a manner consistent with the treaty rights of Yakima Indian Nation, Federal reclama-

tion law, and water rights recognized pursuant to State law, including the valid contract rights of irrigation users.

SEC. 3. (a) The Roza reregulating reservoir shall become a feature of the Roza Division. Water savings resulting from construction and operation of the Roza reregulating reservoir shall be available for use as supplemental irrigation water for currently developed lands within the Roza Division.

(b) The facilities to automate and otherwise improve canal operations of the Wapato Indian Project shall become features of the Wapato Indian Project. Water savings resulting from construction and operation of such facilities shall be available for irrigation purposes and for the protection and enhancement of fish and wildlife within the boundaries of the Yakima Indian Reservation. Design, construction, operation and maintenance costs related to such facilities shall be reimbursable and returnable according to the provisions of the Leavitt Act (Act of July 1, 1932 (47 Stat. 564)).

(c) The facilities to automate and otherwise improve canal operations of the Sunnyside Division shall become features of the Sunnyside Division. Water savings resulting from construction and operation of such facilities shall be allocated to the protection and enhancement of fish and wildlife.

SEC. 4. The modification of existing radial gates at Cle Elum Dam and the Kachess Lake to Keechelus Lake pipe-

line shall become features of the existing Yakima Project. The Secretary shall operate and maintain such facilities in accordance with the purposes of this Act.

SEC. 5. (a) The Secretary shall operate and maintain the existing Federal Chandler and Roza powerplants in a manner that provides priority for protection and enhancement of fish and wildlife.

(b) The Administrator of the Bonneville Power Administration (hereafter, the Administrator) shall make available power and energy from the Federal Columbia River Power System to the Secretary to meet contractual obligations entered into by the Secretary for the delivery of power and energy from the Chandler and Roza powerplants.

(c) Except as otherwise provided by this section, the Secretary shall offer to amend, without imposing any other requirement as a condition to such amendment, all existing contracts for the sale of power and energy from the Chandler and Roza powerplants to relieve any outstanding obligations for the repayment of construction costs for such powerplants allocated to irrigation.

SEC. 6. There is hereby authorized to be appropriated to the Secretary of the Interior for planning, design and construction of elements of the Yakima Enhancement Project authorized pursuant to this Act, $30,000,000 (January 1986 prices), plus or minus such amounts as may be justified by

reason of ordinary fluctuations of construction costs indexes applicable to the type of construction involved herein. There are also authorized to be appropriated to the Secretary of the Interior such additional sums as may be required for the operation and maintenance of the three vertical feet enlargement of Cle Elum Lake and the Kachees Lake to Kechelus Lake pipeline, and that portion of the operation and maintenance cost of other facilities authorized by this Act determined by the Secretary to be a Federal responsibility, pursuant to the agreements specified in Section 2 of this Act.

SEC. 7. The construction of facilities authorized by section 1(a)(1) of this Act shall be initiated only after non-Federal interests have entered into binding agreements with the Secretary to fund 35 per centum of the total construction cost of such facilities.

SEC. 8. (a) Design, construction, operation and maintenance costs of facilities authorized by this Act allocated to fish and wildlife shall be reimbursable and returnable according to the provisions of the Federal Water Project Reclamation Act (79 Stat. 213), as amended: *Provided*, That design, construction, operation and maintenance costs related to anadromous fish shall be nonreimbursable and nonreturnable.

(b) Design, construction, operation and maintenance costs of facilities authorized by this Act allocated to irrigation and which are determined by the Secretary to be an irriga-

tion obligation shall be reimbursable and returnable according to the provisions of section 9(d) of the Reclamation Project Act of 1939 (53 Stat. 1187). The Secretary shall offer to amend existing irrigation repayment contracts, without imposing any other requirement as a condition to such amendment, to provide for repayment of the irrigation construction costs of facilities authorized by this Act over a period of not more than 40 years exclusive of any development period authorized by law.

SEC. 9. If the State of Washington, the Yakima Indian Nation, or any other entity, public or private, prior to an authorization or the providing of an appropriation of funds to the Secretary to construct the Yakima Enhancement Project, shares in the costs of or constructs any physical element of that project, the costs incurred by the State, the Yakima Indian Nation, or any other entity in the construction of such elements shall be credited to the total amount of any costs to be borne by the State, the Yakima Indian Nation, or any other entity as contributions toward payment of the cost of the Yakima Enhancement Project; except that no such credit shall be given for any element constructed by the State, the Yakima Indian Nation, or any other entity unless the element has been approved by the Secretary of the Interior prior to its construction. The Secretary shall grant such approval, when requested by the State or other entity, if the Secretary

determines that the element proposed for construction would be an integral part of the Yakima Enhancement Project.

SEC. 10. (a) The Secretary is authorized and directed to conduct a feasibility study of the following potential elements of the Yakima Enhancement Project:

(1) Kittitas Valley irrigation system improvements;

(2) consolidation of the Selah-Moxee Irrigation District, Union Gap Irrigation District, Moxee Ditch Company, and Hubbard Ditch Company diversions from the Yakima River for delivery from the Roza Canal; and

(3) development of groundwater resources within the Roza Division for a supplemental irrigation water supply.

(b) There are hereby authorized to be appropriated to the Secretary for such feasibility study $500,000 (January 1986 prices): *Provided,* That the Secretary is authorized to accept funds from any entity, public or private, to assist in the financing of such feasibility study.

SEC. 11. Nothing herein shall be construed to—

(a) affect or modify any treaty or other right of the Yakima Indian Nation;

(b) authorize the appropriation or use of water by any Federal, State, or local agency, the Yakima Indian Nation, or any other entity or individual;

(c) affect the rights or jurisdictions of the United States, the States, the Yakima Indian Nation, or other entities over waters of any river or stream or over any groundwater resource;

(d) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States;

(e) alter, establish, or affect the respective rights of States, the United States, the Yakima Indian Nation, or any person with respect to any water or water-related right; or

(f) alter, diminish, or abridge the rights and obligations of any Federal, State, or local agency, the Yakima Indian Nation, or other entity, public or private.

○

STATEMENT OF HON. SID MORRISON, A U.S. REPRESENTATIVE FROM THE STATE OF WASHINGTON

Mr. MORRISON. Thank you, Senator Evans.

I would like to start my brief remarks by thanking you for letting me sit in. The House members usually are not part of Senate hearings, and so this is a courtesy extended to me, and I appreciate it, also the very fact, Senator Evans, that you have brought the subcommittee here into the center of the Yakima Basin area, and for the staff of the subcommittee who are here, as well.

I think it would also be in order for me to thank, at this time, State legislators. They are very much a part of this team and an essential part of the Governor and his team of administrators, particularly Andrew Reneker, the director of the State Department of Ecology, and much to all those folks, Bureau of Reclamation, the irrigators, the Yakima Indian Nation, all of those who have kept their feet under the table as we proceeded through this enhancement process to this point.

The Yakima River Enhancement Program is a dream of mine. I hope that during my lifetime I can see a reservoir that will, at long last, answer many of the problems that we face during these potential short-water years, and we're facing one right now, so we're on our way to a reservoir. This is an intermediate stop, if you will, although it's not really a stop, I think it's a plateau. And on this, we will move our way on through the rest of the process.

In looking at the earlier implementation package, almost a halt in the procedure of a year, or so, I was concerned about it. We had a number of good ideas. It's interesting, as we moved on toward what we need, which is additional storage, and a lot of good thoughts and ideas and plans have come forth.

And this is a chance to put some of those things together in a package, and keep our momentum.

The goal, as I would see, here with this package—and I have introduced a House version of the Senate bill—Senator Evans has indicated that to keep up our momentum, to keep the enthusiasm going, the team is there, and to now see if we can move on through the legislature and halls of Congress and to keep the issue of this in front of the Members of Congress and let them know that this is only an intermediate stop.

The second major goal of this package is to have a specific proposal in front of the State legislature, when they meet in January, with numbers, with projects in mind so that they can no longer say, well, when you come to us for money there are no details associated with it. There certainly are in this particular case.

The important thing about today is to hear from the people that are most directly impacted by the Enhancement Program.

And, again, Senator Evans, let me welcome you to this part of your great State, and I'm looking forward to the comments of all those in attendance.

Senator EVANS. Thank you very much.

Next let me call on Richard Ellis, the eastern Washington director for Senator Slade Gorton.

Mr. ELLIS. Senator Evans, Congressman Morrison, I'm Dick Ellis, the eastern Washington director for Senator Slade Gorton, cosponsor of this bill.

The Scriptures say that without vision, my people perish. And without water the Yakima Valley perishes. Water is the lifeblood, which nourishes the entire State.

The committee is here to gain perspective on the matter of how all interests of the Yakima Basin can best be served.

I'm pleased to represent Senator Gorton. Here are his remarks to be read into the record.

STATEMENT OF HON. SLADE GORTON, A U.S. SENATOR FROM THE STATE OF WASHINGTON

Mr. Chairman, I am pleased to have the opportunity to participate in this field hearing. Although other duties have prevented me from being present today, I do want to express my firm commitment to working with Senator Evans and Congressman Morrison to ensure that the Yakima Basin project moves forward effectively and responsibly.

On June 5, 1986, I joined with Senator Evans and Congressman Morrison in introducing legislation in Congress which aims at continuing the process of protecting and enhancing the water supply and its uses in the Yakima Basin.

The Bureau of Reclamation was given the authority, during the 96th Congress, to conduct a major feasibility study of water resource enhancement in Washington State. Phase I of the study was completed in August of 1982. Phase II is currently underway to formulate a development plan to present to Congress and to Washington for implementation.

Although we expected the Phase II report to be completd in January of this year, the divergent interests, who have legitimate concerns about the future uses of water in the Basin, are still trying to work out their differences. However, the study team working on the project has identified certain specific project elements that have potential for early implementation. Moreover, the State legislature passed legislation in 1986, which directs the State Department of Ecology to work with members of the congressional delegation to identify and address these elements. These elements are contained in the legislation introduced on June 5.

I believe that it is immensely important that Congress act on those portions of the project which have broad public support and acceptable cost-sharing arrangements, which meet the objectives of the study, and which have potential for early implementation. The bill identifies a number of these elements and outlines a responsible cost-sharing formula between the Federal Government and the State.

Now is the time for the people to make their voices heard. I look forward to receiving public comment on this legislation, which will provide a true gauge of its level of support in the State of Washington.

Irrigators, cattlemen, sports fishermen, Indians, and power users all deserve the opportunity to comment on the bill.

With this in mind, I urge all interested parties to make their views clearly known to Congress through this committee hearing.

Thank you very much.

Senator EVANS. Thank you very much, Dick.

As we proceed, let me now call on Jim Whiteside and Graham Tollefson, Board of County Commissioners here in Yakima County.

If they are in the audience, or if they are just outside, we'll give them 30 seconds to get in here or we go on to the next.

While they are looking for them, let's proceed ahead.

Our next witness is the Honorable Irv Newhouse, a member of the senate of the State of Washington and representing the portion of Yakima County.

He is also a long-time colleague, as we all came out of the State House of Representatives at one time.

STATEMENT OF HON. IRV NEWHOUSE, WASHINGTON STATE SENATOR

Senator NEWHOUSE. Thank you, Senator, Congressman.

I welcome the opportunity to express my support for the Senate bill and the companion bill, which Congressman Morrison has introduced.

I have involved in this subject for just about 30 years now, I think, and we're sometimes frustrated with the lack of action. I particularly appreciate the need, because as our project gets more and more permanent crops, a periodic drought is more and more a problem because the damage can be lasting in fruit industries and vineyards and similar crops.

The problems of a periodic drought have caused tremendous expense to farmers in years when it has happened, and it's a real concern for the future.

I see, in this bill, a start. And these projects are worthwhile. We will increase the amounts of water available to those with the lesser water rights.

I do want to express that there are some questions about the details of the bill, which I'm sure we can work out.

I would mention, too, I have not talked with the experts on the irrigation matters, but I note in this bill that there is some Federal involvement with water rights, a subject that has been very much delegated to States in the past; and I'm a little concerned about that.

The other concern I wanted to express is that on nonreimbursible projects, those which add to the flow of water in the Yakima River, supposedly nonreimbursible, we still find that there is still a 35-percent requirement from non-Federal funds, and as a State legislator I have to wonder where that is to come from.

But again this bill is important. The project is worth while, and the sooner the better.

I wanted to say, too, that during this past session we, the legislators, passed senate bill 4481 by a vote of 19 to 5 in the house, and 47 to 0 in the senate, which indicates our support and willingness to cooperate with the Federal Government in enhancing the flow of water in the Yakima River providing more water for irrigators, and, I think, successfully we've already increased the fish flow, and it has been successful in that.

I do want to say, too, that we have some funds still available from the referendum moneys, 38 and 39, which you will recall, former Governor, and I think that somewhere near $29 million or $30 million would still be available as matching money, or potential matching money, from that source.

And I do want to express, too, that let's not forget the major project, an enhancement in storage, in the Yakima Basin, which has got to be our main objective.

Thank you.

Senator EVANS. Thank you very much.

Before you leave, I think it's important to express to you, and the other members of the legislature who are here, my thanks for the work that has already been done, and needed work still ahead to insure that there is the necessary kind of local financial support,

which is very, very critical now, and will be in the future, to get the kind of Federal project sponsor that we want. It's going to be a partnership program, and I'm really delighted that we have moved as far as we have.

Senator NEWHOUSE. I appreciate that.

I will offer to keep my lines of communication open.

Senator EVANS. Thank you.

I don't know whether anyone was able to find our two county commissioners, or whether they found it necessary to leave. They had a Board of County Commissioner's meeting at 10 o'clock, and perhaps they had to leave.

Let me then call on the Honorable Scott Barr, State senator from the Washington, State Senate.

Scott, nice to have you have.

STATEMENT OF HON. SCOTT BARR, WASHINGTON STATE SENATOR

Senator BARR. Thank you Senator Evans and Congressman Morrison.

I appear, very briefly, on behalf of Senator Max Benitz who was scheduled to testify, and regretfully he cannot be here today. It seems like Hanford has a way of being in the center of the limelight on the nuclear-waste thing. And at this very hour, they have a news conference down there on that nuclear waste subject.

So very briefly let me state Max's support, and mine as well, to compliment you folks, Senator Dan and Senator Slade, for your leadership in this very important matter, and for the support that Congressman Morrison gives also.

The drought years come and go, and we're about due. It seems like there can be cycles every so often they come. And I think it's perhaps maybe even a little late for you folks to make this leadership. But we have been working at it, we have all been working at it, and hopefully it can bring some enhancement to the Yakima Basin, and can come about at the earliest possible time.

We, in the legislature, and myself, as the Republican ranking member of the Agricultural Committee and on the Natural Resources Committee, look forward to what you folks are proposing, and we look forward to cooperating with you on into the next session of the legislature.

As Senator Newhouse said, the State legislature has demonstrated some willingness to cooperate at the State level, and I think you can, rest assured, look forward to that; no question about it, more storage is needed.

Let me mention one thing as Scott Barr, not necessarily instruction from Max Benitz.

Being on the Natural Resources Committee as well as being involved in the legislation of the last session on the hydraulics issue and the fish issue, I want to go on record suggesting that more thought be given in the important matter of fish enhancement; and that's a major part, as it should be, of the Yakima Basin and other watershed developments, that we not necessarily try to have natural spawning on every stream. I have talked to a lot of experts and knowledgeable people about this. It's no question that we all agree

that natural spawning is a very important part of the continuing fish enhancement.

I state it this way, and I would hope that you would take serious note of it. Natural spawning philosophy versus hatchery; please give that some serious thought. Are we talking about more fish, or a philosophy. So I think we should separate the apples from the oranges, and let's talk about total fish and the natural spawning enhancement, but does it have to be total.

So with that, I won't take up anymore time.

There are many people, very knowledgeable people, on the Yakima enhancement that wish to testify.

Thank you very much on behalf of Max Benitz. Sorry I had a duplication.

Senator EVANS. Thank you very much, Scott, delighted to have you here.

We have a welcome addition to the list of opening testifiers. In addition to the two members of the State senate, who have come, we have three members of the State House of Representatives. I could not, as a former member of the State House of Representatives, let this opportunity go without asking them to come forward.

And as a result, I will ask all three representatives to come forward as a panel, and then to give their remarks individually.

Representative Margaret Rayburn, Representative Shirley Doty, Representative Forrest Baugher, if you would all come forward, we would be delighted to hear from you.

Please go ahead, Representative Rayburn.

STATEMENT OF HON. MARGARET RAYBURN, WASHINGTON STATE HOUSE OF REPRESENTATIVES

Representative RAYBURN. Thank you very much for the opportunity to come before you, Senator Evans and Congressman Morrison, to express my support for this Federal legislation.

Irrigation and agriculture have always been an important party of my life. My grandfather settled in eastern Oregon in 1869, and being a very farsighted person understanding how important water was for irrigation, dug, with horses and hand labor, a ditch 18 miles long to bring water to the ranch, and eventually evolving through various kinds of irrigation up to the pumping system of modern irrigation technique.

The Yakima Basin is a very important and productive agricultural area in the United States. Water shortages, however, continue to plague this rich, diverse agricultural area.

Twice I have proposed State legislation for the authorization of bonds for the funding of the Yakima River Basin enhancement project, and twice this proposal has been unable to gain bipartisan support.

Through the cooperative effort of the irrigation districts, the Washington State Department of Agriculture, the Department of Ecology, Senator Hansen and his staff, the Governor's office, and Representative Max Vekich, house Agriculture Committee Chair, Representative Forrest Baugher and I drafted the amendment to senate bill 4418. This legislation received overwhelming support by the senate and the house. The legislation directs the Department of

Ecology to work directly with the State's congressional delegation to obtain Federal funding for early implementation needs and assistance in alleviating the water supply problems of the Yakima River Basin.

Governor Gardner has given his persona! commitment to work with Representative Baugher and me to obtain State support for the Yakima enhancement project.

Through this legislation, that we are considering today, the diligent efforts of the irrigation districts and many others that have worked cooperatively together, I believe we have established a strong unified effort to achieve State support that will gain this legislation and go ahead with the enhancement project.

Thank you very much.

I would also like to extend a thank you to Senator Evans and his staff for sending copies of the Senate bill 2519 preceding this hearing, and also the Congressional Record. I do greatly appreciate your understanding, Senator, that it is important that we on the State level be informed of what is happening in the Federal level, and I do appreciate your understanding of that.

Thank you.

Senator EVANS. Thank you.

STATEMENT OF HON. SHIRLEY DOTY, WASHINGTON STATE HOUSE OF REPRESENTATIVES

Representative DOTY. Thank you, and good morning.

People of the 14th District of Upper Yakima, which I represent, are pleased and thankful that our congressional delegation has introduced measures which will begin to address the longstanding problem of water shortages.

In a recent newsletter I asked readers for their opinions on several topics, icluding the Yakima enhancement project. More people responded to that topic than any of the others, all indicated support for action that would increase water supplies. Several, who have lived in this valley many years, wrote of their frustrations with years of discussions and numerous studies, which of course haven't produced any more water.

My constituents and I commend you for your actions and pledge ourselves to that enhancement by encouraging and urging similar participation by your State governmental bodies.

Thank you.

Senator EVANS. Thank you.

Representive Baugher.

STATEMENT OF HON. FORREST BAUGHER, WASHINGTON STATE HOUSE OF REPRESENTATIVES

Representative BAUGHER. Thank you Chairman Evans and Congressman Morrison.

Also, when my grandfather came to the Yakima Valley in the late 1800's, he started working on the Sunnyside Canal using a team and slipscraper. He then went onto the Wapato project, retiring from there in 1943. My father then took his place, retiring in 1975.

I now own a farm on the Wapato project, so my roots are a part of the development of the irrigation in the Yakima River Basin.

When the last project, the Roza, was developed, both my father and grandfather said that I would see the day when we would have a shortage of water in the valley. That day has been with us for some time. That is why I am very encouraged to see that the efforts of our congressional delegation have gotten the ball rolling for Federal funding of early implementation elements of the Yakima River Basin enhancement project. The importance of this project to the economy of the Yakima Valley and the State of Washington cannot be overestimated.

It has taken a tremendous effort to get to this point, and I want to commend the dedication and commitment of our irrigation districts, as well as the leadership and tenacity of Representative Rayburn and Senator Hansen in keeping this matter before our colleagues in the legislature.

We were finally able to pass Senate bill 4418 with very little dissent, which I think proves the continuing commitment the State of Washington has to our agricultural industry.

It is this kind of commitment, both Federal and State, that it is going to take to make the enhancement project a reality. I applaud the efforts of the Federal Government in taking a leadership role, and I can only say that we, in the legislature, will do all we can to match the Federal effort.

Senator EVANS. Thank you very much, not only for coming and being a part of this hearing, but also for the fine work that is being done in the legislature to make this truly a partnership project, which is critically necessary if we're going to succeed at all.

We do thank you.

Next I'm really pleased to invite to the witness stand Senator Hansen, who is clearly one of the leaders in the legislature in terms of agricultural efforts, in terms of water and its appropriate use; and his wise counsel has been exceedingly helpful, not only in the legislature, but to those working in the Federal level.

It's nice to have you here.

STATEMENT OF HON. FRANK HANSEN, WASHINGTON STATE SENATOR

Senator HANSEN. Thank you, Senator, Congressman Morrison. It has been a pleasure to serve with both of you.

I commend the Federal Government for putting the bill together to help the Yakima enhancement program.

I do have some questions to ask on this, so I will enter that in written testimony, and I would appreciate return answers to the problems that I have, from your perspective.

Instead of taking up a lot of time—you have a lot of people here—it has been my pleasure to work in this area.

As I read the legislation, I have questions; so they will be sent to you, written testimony, and I would appreciate answers to it.

Thank you very much for having us here.

Senator EVANS. Thank you.

Mr. MORRISON. One of our goals in this package was to provide you legislators in the State level with some specifications that per-

haps could be impressed upon your colleagues, particularly from the other side of the Cascades.

We sense this early implementation has some ingredients that will answer some of their questions and move us in the right direction as far as funding is concerned.

Senator HANSEN I believe so, but some of the things that have happened in the valley in the past few years that I think we could have more clarification on, and so that's the reason instead of going into all of the different aspects, that I think should be written testimony, to come in, and give you time to analyze the perspective that some of us are coming from, along with some of our constituents in the valley.

Senator EVANS. That will be very helpful.

And just to remind everyone again, the record will remain open for 2 weeks for additional written testimony, which will be very helpful to us as we take into account everything we hear and learn about today and use it to try to improve this legislation.

Senator HANSEN. I appreciate that. Thank you very much.

[Subsequent to the hearing Senator Hansen submitted the following:]

Frank "Tub" Hansen
State Senator
Thirteenth District

401-A Legislative Building
Olympia, Washington 98504
(206) 786-7624

July 7, 1986
1986 JUL 14 PM 8 47

Senator Daniel J. Evans
702 Hart Senate Office Bldg.
Washington, D.C. 20510

Dear Senator Evans:

Thank you for the opportunity to testify on S.2519 at the July Congressional hearing in Yakima. The following comments represent my concerns and thoughts on the bill for early implementation of the Yakima River Basin Enhancement project.

As you know, we have spent years trying to resolve water problems in the Yakima Basin by proposing better management, new water storage capacity and increased water system efficiency. Studies have been on-going for some time and it seems that the issues get pushed to the forefront whenever a water-short year seems around the corner. It is encouraging to see the introduction of a bill which begins to solve the water problem in the Basin. The early implementation bill, which pertains to non-storage elements, is a first step towards the ultimate solution of having adequate water supplies in the Basin.

The Yakima River Basin is the most productive valley in the nation. Water is the lifeblood of agricultural production and in the Yakima Basin more water is needed both to meet existing demands and to expand our production. In order to have a long-term solution to the water supply problem, the Basin needs additional water storage.

Although I am encouraged by your efforts, I also have some fears about the bill. The State of Washington has been an active participant in the studies and will continue to participate in implementation. Some of the fears I raise will have to be addressed in order that the state's policy-makers feel comfortable in encouraging and financing a share of the solution.

The bill allocates costs 65% to federal sources and 35% to non-federal sources. The bill, however, does not specify who will be the non-federal players. The bill should indicate the involvement of the Bonneville Power Administration (BPA), the Northwest Power Planning Council, the Indian tribal representative, and any irrigation districts. Especially important is the reference to the BPA which tends to fall somewhere

Agriculture, Chairman
Transportation, Vice Chairman
Parks and Ecology

between a federal and non-federal entity in that it has a regional focus.

Washington is a leader in cost-sharing on such projects. Historically, such funding arrangements have been left to negotiations between the interested/affected parties. Since this bill allocates a specific percentage of the costs to non-federal sources, the state's decision-making has been pre-empted. The issue then becomes not "at what cost does the state become involved", but rather "whether to participate at all". This approach to cost-sharing is a step backwards in encouraging state participation.

The allocation of costs 65% to federal and 35% to non-federal sources is a misleading allocation since the ultimate costs must figure in the reimbursable aspect of each proposal. In fact, the non-federal contribution on several of the projects could reach 100%.

Some of the aspects of the bill have been identified as "irrigation features" thus making the federal contribution totally reimbursable. Yet, some of these projects have hidden fish benefits which should reduce the non-federal reimbursable percentage. For example, the pipeline between Keechelus and Keeches will allow the flow to be kept low during spawning season for fish which will be able to migrate further due to the soon to be constructed Easton fish ladder. These benefits for fish are not, however, figured into the reimbursement formula. By enhancing irrigation, water will be left in some normally dry creeks thus encouraging upstream migration. Such water flow will be able to be varied without sacrificing irrigation to protect salmon redds.

In 1984, Judge Quackenbush ruled that water flows had to be low during spawning to protect salmon redds. Due to that decision, irrigation water was sacrificed. Is that water going to be "returned" for use by the irrigators before the reimbursement formula calculates the reimbursable aspect of a particular project?

The most important fear that I have is the precedent this federal legislation would set regarding the federal preemption of the state's regulatory authority over water rights. This is a precedent I am sure that no western state will tolerate. Another big fear is

whether the allocation and adjudication of existing water rights in the Yakima Basin will be circumvented or otherwise delayed while the early implementation proceeds.

Thank you, again, for the opportunity to present comments on your proposal for the Yakima Basin. Additionally, I wish to go on record as encouraging the expansion of irrigation in the Columbia Basin as well as in the Yakima Basin. The issues and resolution may be different, but the agricultural needs will ultimately be the same.

I look forward to your response to the issues I have raised.

Sincerely,

Senator Frank "Tub" Hansen

cc: Congressman Sid Morrison

Senator EVANS. Now I would like to call on Representative Jim Lewis from Yakima, a member of the State House of Representatives, with an obvious interest in these matters.

STATEMENT OF HON. JIM LEWIS, WASHINGTON STATE HOUSE OF REPRESENTATIVES

Representative LEWIS. Thank you.

Senator EVANS. It's good to see you again, and I share in welcoming this prestigious committee and Senator Evans and Congressman Morrison to Yakima.

My comments would be very brief in that having struggled with this issue for many, many years, in the house, hopefully we can get some specifications from the Federal Government to give us guidance as to what our role and responsibilities will be.

The other concern is that, as I'm a firm believer that the Lord gave water to us all, we're able to strike a balance on an agreement with the Yakima Nation, which provides their needs as well as the overwhelming needs of the irrigators in the future of this valley for all parties.

Again, I look forward to seeing final legislation as it sails through the Senate and the House and becomes law. So we can hopefully begin to deal with it is a pragmatic way in January 1987.

Again I think you all for coming.

Mr. MORRISON. Jim, our problem is that the Lord gave us water in the wrong places.

Representative LEWIS. We might be able to take some from California or Arizona.

Senator EVANS. Thank you very much.

Now let me call on Kai Lee, a member from the State of Washington of the Northwest Power Planning Council. And I see he is being replaced already. It's not Kai Lee, it's Rick Applegate, and we're delighted to have you.

STATEMENT OF KAI LEE AND TOM TRULOVE, NORTHWEST POWER PLANNING COUNCIL, AS PRESENTED BY RICK APPLEGATE

Mr. APPLEGATE. For the record, I'm Rick Applegate, executive assistant at the Northwest Power Planning Council.

I'm here with a prepared statement for Kai Lee and Tom Trulove, who are the two Washington members of the council. They have asked me to express their regrets to you that they are unable to make this journey. They are very interested in the important issue that you are addressing here today.

I would like to read, for the record, their prepared statements and respond to any questions you might have.

Senator Evans and Congressman Morrison,, we are pleased to offer comments on S. 2519 and H.R. 4947. We commend you for your leadership in attempting to resolve the complex water resource problems of the Yakima River Basin.

Since the Northwest Power Planning Council has not had the opportunity to review this legislation, we are testifying today as members of the council and not for the council as a whole.

Senator EVANS, as you well know from your chairmanship of the council, Congress and the Governors of the four Pacific Northwest States created the council as an interstate compact in 1980. Congress provided in the Northwest Power Act that the council was to perform energy planning and fish restoration planning in close consultation with the citizens of the region.

In 1982, after receiving the recommendations of affected parties and conducting hearings throughout the Pacific Northwest, the council adopted the Columbia River Basin Fish and Wildlife Program. That program, which was amended in 1984, and is currently being amended again, is designed to protect, mitigate, and enhance the fish and wildlife resources of the Columbia River and its tributaries to the extent they were damaged by the construction and operation of hydroelectric facilities in the basin.

As you know, the Yakima River Basin has been a high priority in the council's Columbia River Basin Fish and Wildlife Program since its inception. This may seem odd because the fish and wildlife activities of the council are designed to mitigate adverse hydroelectric impacts, and the dams in the Yakima River Basin were not constructed primarily for hydroelectric power production. However, it is important to recall that one of the most innovative features of the 1980 Northwest Power Act is its authorization of off-site enhancement as an alternative to mitigation at the specific site of hydropower impact. The flexibility in the act is important since, in a highly developed river system like the Columbia, it is not always feasible or biologically appropriate to provide full mitigation or enhancement at the site of each hydroelectric dam.

Section 900 of the program provides for a variety of fish passage projects, water conservation, instream flows, and flow enhancement projects and studies in the Yakima River, a tributary that was recognized early as one of the very best fish restoration opportunities in the Columbia River Basin.

Your legislation proposes an early implementation package of nonstorage water conservation projects that appear to enjoy broad support among the affected irrigators and the Yakima tribe. For each project, the Bureau of Reclamation has calculated fishery benefits as well as economic costs and benefits. The council has not had the opportunity to review these analyses. However, we are aware that the State of Washington has recently asked the council to adopt appropriate amendments to the Fish and Wildlife Program that would incorporate some features of this early implementation package into the program, and perhaps provide Bonneville Power Administration ratepayer funding for a portion of their costs.

It is our intention to ask members of the council to consider amendments covering the early implementation package even though the deadline for the submission of amendments in the current program amendment cycle has passed. It is our hope that the council will be able to reach a decision on these projects in a timely fashion.

Senator Evans and Congressman Morrison, we should all remember the spirit of cooperation that was repeatedly expressed by irrigators, the Yakima tribe, the State of Washington, the Bureau of Reclamation, Bonneville Power Administration, the council, and

other affected parties when we broke ground on the Yakima River Basin fish passage facilities nearly 2 years ago at Sunnyside Dam. These projects are proceeding, and we are confident that future generations will enjoy their benefits.

We know that there are numerous difficulties facing us as we continue to address the competing demands in the Yakima River system, but we are hopeful that a cooperative approach will enable us to resolve these difficulties in a manner that will provide adequate water for all who rely on the Yakima River for recreation, their livelihoods, and their culture. This legislation is clearly a step in that cooperative effort.

Thank you for the opportunity to appear.

Senator EVANS. Thank you, and I was particularly struck by the portion of your testimony that responded to the State's request that appropriate amendments be added to the Fish and Wildlife Program that might offer some hope for funding offsite litigation; have you had a chance to analyze that yet to know whether there is any likelihood that this could cover each of the elements, or potentially each of the elements, in this package, or be confined to just some of them, or do you know that?

Mr. APPLEGATE. I think it's too early yet to tell. It would depend on the assessment of the fishery benefits that would accrue at each of the projects, and how it might be best to allocate those costs. I do hope that a motion to consider these projects could be considered as early as the council's upcoming meeting in Spokane that's tentatively scheduled for July 9 and 10.

Senator EVANS. Do you know offhand whether powerplant subordination would be one of those things that might be considered as a potential element of a cooperative venture by the council?

Mr. APPLEGATE. My understanding at the present time, it's the intention of Mr. Lee and Mr. Trulove to ask the council to consider all of the elements that are incorporated in your legislation.

Senator EVANS. Congressman Morrison.

Mr. MORRISON. Thank you, Senator. Rick, I just wanted to touch base with you. You testimony answers many questions I have, but lets maybe go a step further, if we can.

A few years ago, when the council was just beginning to look at their Fish and Wildlife Program, many of us felt that the Yakima was selected as the tributary of choice because of the potential for replacement of that salmon industry. We are enthusiastic about that, and you helped us with phase I, and that's greatly appreciated.

This early implementation package also needs a boost, and I'm delighted with your prospective action, and if we can help any with the representatives of the four states, please, let us know.

My question would revolve a little further on into the enhancement issue in that all of the things you helped us build so far need more water, and that goes back to the ultimate goal of enhancement, and that is to have additional reservoir capacity; has that been included in the council's discussion of the Yakima as a total system and making it work most effectively for mitigation purposes?

Mr. APPLEGATE. Yes, Congressman Morrison.

From the very beginning the council has recognized in the Fish and Wildlife Programs that additional water storage may be an element of the final overall project. There are specific references to council analysis of storage that will occur upon the completion of the various storage studies that are under way. So it has been viewed as a part of the overall package.

I certainly can't commit to what potential outcome there may be by the council, but it certainly has been considered.

Mr. MORRISON. Is the council in a position to arm wrestle with the Bonneville Power Administration in case Wymer is the reservoir of choice as we get on downstream and we need electricity for pump storage purposes?

Mr. APPLEGATE. I think Senator Evans when chairman of the council, accurately characterized the relationship between Bonneville and the council as creative tension, and there is a certain amount of arm wrestling that goes with that. Depending on the issue, we arm wrestle, and sometimes we put our arms around each other; it varies.

Mr. MORRISON. Thank you.

Sentor EVANS. I would only observe that sometimes it's the Bonneville Power Administration that is cooperative and with us, and they have to report to the Department of Energy. And the Department of Energy is occasionally with us. But they all have to end up reporting to OMB, and OMB really looks at numbers and not very much at benefits, and that sometimes ends up as the critical part of our Federal problem.

Mr. APPLEGATE. The council has found itself, on several occassions, testifying before Congress on OMB proposed cuts on the energy side of Bonneville. And we have testified on the Fish and Wildlife side, as well.

Bonneville has certainly been an active cooperative participant with the development of the Yakima fish passage.

Senator EVANS. We thank you very much.

Give our best both to Tom and Kai Lee.

Next is Mr. Robert Jones, president of the Washington State Farm Bureau.

STATEMENT OF ROBERT JONES, PRESIDENT, WASHINGTON STATE FARM BUREAU

Mr. JONES. Senator Evans, Congressman Morrison, we appreciate the opportunity to have you in our thoughts on our project.

We have followed and participated in the process to provide additional water to the Yakima Valley for a number of years. We, together with our interested parties, have winced at the politics of the process. The delays imposed by the beaurocratic maneuvering, reluctance of all beneficiaries, we pull together for a project completion, and the unwillingness of the Washington State Legislature to provide seed money to demonstrate to the Federal Government that we're ready, willing, and able to participate in the project. We support their early implementation of the conservation and measure proposed.

We ask that you move ahead with all delivery speed without any delay to implement the conservation measures that are proposed in your bill.

We oppose any attempt in the Washington State Legislature to tie the enhancement program in the Yakima River Basin to the future development of the Columbia Basin project.

Irrigation has changed the Yakima River Valley from a desert environment of low agricultural productivity to the most productive region of its kind in the country. Our State and our Nation directly benefit from this irrigation project, and agricultural products, and income, and jobs.

To guard against the tragedy of a low water year, such as 1977, and to insure continued agricultural productivity, as well as sufficient stream flows to support anadromous fish and resident fish facilities, additional storage on the Yakima River must be provided at the earliest possible time.

The Bureau of Reclamation, through intense studies, has provided for alternative plans for the enhancement project.

While we do not limit our options to one plan, we do favor plans 1 and 4, as noted in the January 14, 1986, Department of the interior schedule. This plan includes storage at the Bumping Lake, and in our view, appears to meet the needs and provides maximum storage of the plans, and does so with a reasonable cost-benefit ratio.

Our real interest, however, and the thrust of my presentation today is not to argue about alternatives, but to strongly encourage all concerned to move ahead with this plan.

In August of 1985, in response to a number of comments regarding the April of 1985 Bureau of Reclamation's status report of the Yakima enhancement project, I firmly established the Farm Bureau's position in this matter in a letter to them from regional director, Bill Bloyd. In reviewing that correspondence prior to this field hearing, I came to the conclusion that those 1985 notes are just as appropriate in July 1986. I would simply like to enter them in the record at this time.

In 1985, we noted a number of negative comments regarding the April 1985–86 status report. My August 1985 letter was to address some of those negative comments and firmly establish the position of the Washington State Farm Bureau. Let me quote in part, we agree with some of the comments, particularly regarding the timing of the fish passage and construction. The questioned need for these is the Selah Re-regulating Reservoir, and the lack of cooperation on the part of the Yakima Indian Reservation.

It would appear to us that the correct timing for the construction of the fish passages would have been following the completion of additional storage and additional water for their proper operation.

We support the concerns of small water right holders on the small streams and the creeks, and we totally oppose any attempt to infringe on their water rights. Many of these water rights go back into the 1800's.

We believe it would be a mistake to delay the project due to the inability of the Yakima Nation to decide whether they will cooperate or not. We favor going ahead with the project on schedule, with or without the cooperation of the Yakima Indian Nation.

Additionally, we believe it would be a serious mistake to further delay the Yakima enhancement project until all points of disagreement with all parties have been resolved, or until the DOE adjudication is completed.

In view of the fact that minimum stream flows will eventually be set on the Yakima stream system, it makes it even more imperative that the storage portion of the Yakima enhancement project was made without delay.

The coordination and the compromise are an essential ingredient to the success of the project, an ingredient that, in our opinion, should be a part of the project as it progresses.

Further delay until all disagreements, suspicions, or perceived inequities are resolved, will simply kill the project.

There are few of the players in this grame who cannot recall the short water problems of 1977. Many now realize that 1986 could be a repeat of 1977. With that experience in mind, we believe that enough time has slipped away through the normal bureaucratic process.

We encourage you to proceed with the project with all possible haste, since, the one point we all seem to agree on, is that the only real solution to the water problems of the Yakima Valley is additional storage. Our position has not changed on that.

We also support the Kennewick Irrigation District in their expressed concerns in a letter dated June 4, Senator, about the possibility of power subjugation could have an impact on the regulated flow of their irrigation canal and impact on their canal process, in which they have been lining that canal in an attempt to prevent any further serious breakouts in that canal that have caused some serious damage over the past few years. We support them in their concerns, and ask you to address those concerns adequately.

I'm here today to encourage forceful and direct action on the part of you and the rest of our congressional delegation, as well as the State of Washington, to take the need for completion of the enhancement project seriously and give it the highest priority it deserves.

I would ask that the debate over the completion of the Columbia Basin project not be allowed to detour, derail the construction on the completion of the Yakima enhancement project.

As my final comment, I would like to impress upon you that we're very serious that the only answer to all of these problems, the final answer, is additional storage. Additional storage will provide water for the eventual minimum stream flow requirements that will eventually be put on the Yakima system. That additional storage will also provide water for a fishery enhancement, and in this process, that additional water will also alleviate some of the pollution problems that we now have in the Lower Yakima River.

Gentleman, thank you.

Senator EVANS. Thank you, Mr. Jones.

I think there may be some questions.

First, I guess I wasn't quite sure exactly what portion of the testimony was reading of the letter from last year and which portion was new. But pressumably, in your reading of the letter, you were reiterating a current position that was expressed by what was said in the letter.

Mr. JONES. That's correct, Senator, I will provide copies for the committee.

In reviewing this, I noted a couple of errors that could be misinterpreted. I'm going to return the copy and have corrected copies printed and mailed to the committee.

Senator EVANS. I noticed that you used the terms coordination and compromise as a way to move together. I think that's appropriate. In fact, its the only way we're likely to get any success.

About in the same portion of your testimony, I think that was reading from your letter of last year, that you recommend we proceed ahead whether the Yakima Nation agrees or not. It seems to me that those statements are sort of in conflict.

Coordination and compromise requires everyone to work together.

Mr. JONES. I have yet to see any public comments from the Yakima Indian representative, Senator, that implies their public support for the enhancement project in its entirety.

Senator EVANS. But you're suggesting that, by proceeding ahead, whether there is a total agreement or not, would you judge that if there is no agreement you're more likely to try to find water in court than in Congress?

Mr. JONES. I don't know if you're aware of it or not, but information came to us recently that the Bureau of Indian Affairs has provided the Yakima Nation $1,000,000 to go to court to attempt to secure 350,000 acres of water rights out of the Yakima River.

Senator EVANS. I don't know that.

Mr. JONES. I don't perceive this attitude, Senator, as being cooperation.

Senator EVANS. Well, it's a two-way street, I guess, and that's what we're trying to achieve, and I hope that everyone realizes that it is important to try to understand both the needs and the rights and the responsibilities that exist on all sides.

I think there is some considerable body of opinion that suggest we have given out more water rights in Yakima than there is water for.

Mr. JONES. That's entirely possible.

I'm not sure that irrigated agriculture at the present time needs any additional water. It would have our full compliment of acre-feet of storage water returned to the irrigation districts, and with additional new storage to provide more water for instream flows and fishery enhancement.

There is a possibility that the current irrigated acres in the Yakima River Basin, in the normal year, can get by on the water they had. With the conservation measure that is proposed in yours and Congressman Morrison's bill, I believe this can be achieved, and therefore that's what leaves the remaining new storage for minimum stream flows and fish enhancement.

Senator EVANS. You're suggesting that the irrigation come first?

Mr. JONES. We intend to retain our water rights.

Senator EVANS. There is some water argument about who has prior water rights.

Mr. JONES. I think I would be amiss if I did not say that I full suspect that the irrigated water users in the Yakima River Basin

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will raise whatever funds are necessary to beat any opposition to our rights.

Senator EVANS. You suggest that probably the best way out is to try to arrive at an answer where everyone can join together in a positive way rather than, well, it's not a question of water if it all goes to court, it is a question of a judge's decision, and nobody knows how that judge's decision might come down.

Are you aware of any judge's decisions that has yet produced any water?

Mr. JONES. No. And the adjudication process will not produce one additional drop of water.

The last thing we want to do is go to court. We would rather settle this in a responsible manner with all entities cooperating, but if we're forced to go to court, I think, rest assured, we'll defend it.

Senator EVANS. Representative Morrison, do you have any questions?

Mr. MORRISON. No.

Senator EVANS. Next, the panel No. 1 is the U.S. Bureau of Reclamation.

I might say, as I call these panels together, that we put a limit of 20 minutes on each of the panels. That doesn't mean that the panels think it's necessary to use all the 20 minutes. We do have eight panels, and that's going to take a considerable amount of time. We do hope that there is going to be at least some share of that 20 minutes available for questions from Congressman Morrison and myself.

With that, let me call John Keys, the Acting Regional Director of the Pacific Northwest Region of the U.S. Bureau of Reclamation, and Larry Vinsonhaler, Regional Planning Officer of the Pacific Northwest Region of the U.S. Bureau of Reclamation, and Ray Nelson is joining.

STATEMENT OF JOHN KEYS, ACTING REGIONAL DIRECTOR, PACIFIC NORTHWEST REGION, U.S. BUREAU OF RECLAMATION, ACCOMPANIED BY LARRY VINSONHALER, REGIONAL PLANNING OFFICER, PACIFIC NORTHWEST REGION, U.S. BUREAU OF RECLAMATION; AND RAY NELSON

Mr. KEYS. Senator, I'm John Keys, the Acting Regional Director from the U.S. Bureau of Reclamation in the Pacific Northwest Region out of Boise.

We appreciate the opportunity to talk with you this morning and to summarize our planning activities on the Yakima River Basin water enhancement project and measures being considered in Senate bill 2519 and House bill 4947.

I have just given copies of our testimony here today, and we'll try to follow that general pattern.

As I said, I have with me this morning Larry Vinsonhaler, our planning officer and currently head of our Yakima study team, and Ray Nelson, our project superintendent here in Yakima.

As we go though, if you have questions, we would certainly be happy to try to answer them.

In addition to the copy of the testimony, we have included on your tables copies of our January 1986 Plan Formulation Report—it's right under the green cap there.

As you know, our normal planning process involves detailing economic and environmental studies, cost-sharing agreements. Before we go ahead with this project, this process provides our administration with the opportunity to review and evalute the aspects of the project prior to authorization. In this case, the administration has not had the chance to review these detailed data. Therefore, my comments today are going to be limited to the technical aspect of the proposals in the two bills.

Impressive affirmative action on measures that would be included in the overall enhancement of the project was set 2 years ago. At that time Congress recognized the severity of the water problems in the Yakima Basin and the severity of the anadromous fish problem.

With the authorization of construction and of the fish passage and protective facilities, we're pleased to report that many of those facilities have been built and many others are under construction right now.

The measure that we're asking for here today takes that action a step further, primarily to increase water supply and improve its regulation.

Since the early 1950's, reclamation has been working with the people in the Yakima Basin in ways to supplement the basin's regulated water supply. Most of these earlier efforts recommended new storage reservoirs as the best way to provide additional water supplies. There was also a lot of interest in these proposals, but support was not unified.

Now immediate interest is expanding to include nonstorage measures that will improve the use of existing water supplies and storage. These early action measures speak to this need. On the basis of our analysis, these measures appear to be cost-effective ways to add water and provide operational flexibility to the system. Agriculture and fisheries will benefit from these measures.

However, our studies show that long-term resolution of water supply problems in the Yakima River Basin still required the development of additional storage.

Reclamation is committed to working with the department of ecology and the State of Washington, and others, to propose a storage development as our studies progress.

Importantly, decisions on sizing of the new storage facility can be confidently made knowing that the most promising nonstorage measures are already in place. Many different plans have received evaluation.

The enhancement project has been ongoing since about 1982. Following a great deal of public involvement, our study team recommended that four off-reservation development plans be considered in detail. Results of these studies will be used to recommend a preferred plan of action. The Yakima Indian Nation is conducting its own review of the enhancement project activities now. Upon completion of that review, the Yakima Nation will make recommendations for inclusions in the overall enhancement project.

The off-reservation plans include three categories of that activity. First, is a core group of nonstorage measures common to all plans. The second is additional storage. That additional storage can come from one of two places, one, the enlargement of Bumping Lake, or the construction of Wymer Reservoir, of which we have considered several different sizes. And the third area would be other nonstorage measures to be done later. The measures proposed in S. 2519 and H.R. 4947 are among these potential actions by the Enhancement Program.

The study team has made a preliminary evaluation of the nonstorage measures included in this legislation. However, the effect on fishery concerns have not been fully analyzed at this time. I would like to give you an overview of the concept and the features that are being considered in the two bills at this time.

Behind you is a map of the basin to show you the general location of these facilities. Starting at the top, you can see the Keechelus-Kachess pipeline, the Cle Elum 3-foot raise, coming on down is the Roza powerplant, I'm sorry it's the Roza Reregulating Reservoir, and then we have the Sunnyside works, the subordination of Roza and Chandler powerplants, and Wapato Indian project system improvements. I have a few visuals on your left here that we'll use in trying to describe these features with you.

The chart that Larry is putting up first is kind of a running game plan for what we're trying to do.

The first features that we consider is raising the Cle Elum Dam or the spillway gates on the Cle Elum Dam by 3 feet.

The Cle Elum River stores about 437,000 acre-feet of water. That storage is used for irrigation. Some of the water has been released in the past for fish spawning and rearing, but it's main purpose is for irrigation.

The legislation calls for modification of the spillway gates by adding 3 feet on top of each one of them. That would permit storage of an additional 14,600 acre-feet. In the past, we have used a surcharge operation in that reservoir that has used approximately the same level of water. This operation would differ little from present conditions except for a brief period in the spring when the lake would be about 3 feet higher.

Now, along with the work on the spillway gates is the necessary work on some erosion that would result from the higher water levels. About 6,700 feet of shoreline would have to be protected from erosion—that is shown in these red spots—along the east side of Cle Elum Lake. That erosion control would be accomplished by reshaping the shoreline slopes with riprap. There would be considerable work in the Wish Poosh Campground areas, and about 11,000 feet of the Salmon la Sac highway would have have to be raised.

As I said, looking at the other sheet over here, the increased water supply would be about 14,600 feet. That water would be added to the total water supply available for the Yakima River Basin and could be used for irrigation.

Construction costs for raising the spillway gates, doing the erosion control work, and so forth, is about $3.3 million.

The second facility is the Keechelus Kachess pipeline. Keechelus Lake currently stores about 158,000 acre-feet of water and Kachess

Lake stores 239,000 acre-feet of water. All of this water is used for irrigation. So water has been released in the past for fishery purposes below Easton Diverson Dam during the winter.

Keechelus had a good refill capability, and also spills in the spring. On the other hand, Kachess has a poor refill capability. Legislation calls for construction of a buried pipeline between Keechelus and Kachess Lakes. That would permit the spills to be diverted to Kachess Lake. The pipeline would be about 5 miles long and about 5 feet in diameter. It would give us the flexibility and the operation to move water from one reservoir to the other. Annually about 58,000 acre-feet could be moved from one reservoir to the other. Being able to manage water in this manner would give us a water savings of about 13,000 acre-feet a year.

This water savings would be added to the total water supply available for irrigation.

Construction costs for the pipeline is about $4.5 million.

Additional benefits from this pipeline would permit minimum releases from Keechelus for spring spawning and redd maintenance in the area. Thirty to thirty-five cubic feet per second could be provided without affecting the water supply for irrigation.

The third part that I would talk about is the Roza Canal Reregulating Reservoir. The Roza Diversion Dam sits on the Yakima River and converts water into the Roza Canal to serve about 72,000 acres of land and operation of Roza powerplant. The Roza powerplant takes water from the canal at about 1,000 cubic feet per second at mile 11, runs it through the powerplant and discharges it back into the Yakima River. The canal is operated to maintain minimum water surface levels for 18 pumping stations between mile 11 and mile 59.

This present operation results in some waste of water, or losses of water, from the system. The legislation includes the construction of a reregulating reservoir on Sulphur Creek above the Roza Canal. The reservoir would be about 2,200 acre-feet. It also includes a pumping plant on the canal to lift the water from the canal to the reservoir and a short pipeline to carry the water to and from the reservoir during the operating period. The purpose is to catch the waste water that is currently escaping from the system.

I might add that the operation of the Roza system serves about 354,000 acre-feet of water a year. The savings of water from this part of the project results in about 10,000 acre-feet of water. That water, during dry years, would be used to improve Roza Irrigation District's proratable water supply. In normal years, that water could be used for fishery enhancement.

Construction costs for this project are estimated at $10.8 million.

The next element is the automation of the Sunnyside division operation. Sunnyside division currently serves about 103,000 acres of land. The Sunnyside Diversion Dam is on the Yakima River and diverts water into the Sunnyside Canal. The presents operation of the system is to keep the canal full to maintain water surface elevations for canalside irrigation diversions. In most cases, that system is not as responsive as it could be to irrigation demand changes. Excess water is spilled into wasteway back into the Yakima.

This legislation calls for the installation of automatically controlled gated structures at 28 locations along the canal. The new operation would allow regulation of canal water surface elevations in direct response to diversion needs. The lower water surface levels would be maintained and operational waste would be reduced.

Sunnyside currently diverts about 419,000 acre-feet a year into its canal. The water saved by this operation would amount to 12,500 acre-feet a year, mainly from reduced spills. This water would be used to improve instream flows for the fishery.

Construction costs for this part of the project is about $10.6 million.

The next feature of the project is the Wapato Indian project system improvements. Currently the Wapato Indian project is located on the Yakima Indian Reservation, and serves about 149,000 acres of land. The Wapato Diversion Dam and the Yakima River divert into the Wapato main canal. On the project, there is some drain water reused and some ground water development for additional water.

The legislation calls for lining of about 12 miles of canal on the project, automation of the existing controlled structures, installation of facilities to measure water use. And the main purpose of these facilities is to improve the Wapato irrigation project.

Currently about 610,000 acre-feet of water are diverted every year. Increased water supply from these facilities would amount to 50,000 acre-feet of water a year. This water would be made available for on-reservation use. It would be used for the development of about 10,000 acres of additional irrigation on the reservation if that's what the tribe decided to do. Currently the Yakima Indian Nation has not decided upon its use of this saved water.

Construction costs of this part of the project is about $10.8 million.

The fifth feature is the subordination of Roza and Chandler powerplants. Roza powerplant currently has one unit with 12.9 megawatts. The Chandler powerplant has two units. Each one has 6 megawatts for a total of 12. The currrent powerplant operation is subordinated to irrigation. That means when there is water excess to irrigation, or to the capability of being stored, that water is diverted to operate the powerplants. Chandler powerplant is usually operated year around with a minimum flow of about 200 cubic feet per second. The Roza operates very little during the wintertime, with a minimum flow of 300 cubic feet per second.

This legislation would allow flows from the powerplants to be used, or to be curtailed at times to increase stream flows available for fishery operations below the Roza and Prosser Diversion Dams. That would increase flows from Roza from 300 to about 350 feet per second, and Prosser from the range of 50–200 feet per second up to 450 cubic feet per second. This would enhance fishery mitigation in the critical downstream reaches and during those times of year when the fish are in the streams there. About 15 miles of stream below Roza would be benefited, about 11 miles below Prosser would be benefited.

There are several points emphasized here on the subordination. These are target flow objectives. They are not concrete flows that

we can guarantee would be there all the time. Also we would like to emphasize that the subordination flows would have a second prior to irrigation needs in the basin and in the river. Irrigation is not to be impacted. The flow objective is to be met solely by subordination from the power generation, and there would be no storage water releases to help out with these subordination waters.

Several questions have been raised about the impact on the Kennewick Irrigation District. Service to Kennewick Irrigation District requires flows in the Chandler Power Canal to operate the hydraulic turbines which lift water into the Kennewick Main Canal. The powerplant has also been used as a regulator to compensate for fluctuations and flows of the Yakima River so that constant deliveries can be made to the Kennewick Main Canal. Modifications to Prosser Diversion Dam headgates and placement structures in the Chandler Power Canal may be necessary. Subordination will not have an impact on Kennewick Irrigation District water or its delivery.

Effect on the powerplants. Roza powerplant's generation would be reduced only a minor amount. Chandler powerplant's generation would be reduced by about 14 million kilowatt-hours, or about 24 percent of its present annual generating capacity. Cost of this, at a high rate, would be 32.23 mills per kilowatt-hour or about $450,000 per year. If you use a lower rate of 22 mills per kilowatt-hour, the cost would be about $300,000.

These are all of the detailed charts we have. The overall effects are shown on this cumulative running scoreboard for the project. I would add that all of these facilities would be operated as an integrated system of natural flow, return flow, reservoir storage, and other factors in the basin. The effects of the measures being considered for early action has been evaluated as a package to be integrated with the existing system there.

The total water saved by the whole project is about 100,000 acre-feet per year. That would give increases of total water supply available for irrigation of about 46,000 acre-feet per year. Anadromous fishery increases have been estimated by our study team to be about 13,500 adult fish per year. Now these figures have not been verified, but they are good estimates from our study team.

The total cost of the project is about $40 million.

The legislation calls for 35 percent of the construction to be funded by non-Federal entities, and you can see the breakdown of the 35 percent there. It does exclude the Wapato Indian tribe. The non-Federal share of that $40 million is about $10.2 million. Federal share is about $30 million. Annual benefits from the whole legislative package are about $6.3 million. A very minimum estimate of the benefit-cost ratio for the whole project is about 1.5 to 1.

We emphasize that additional engineering and economic work and environmental compliance activities will be required before implementation measures can be done.

The proposed legislation also authorizes further study on three potential nonstorage measures not incorporated in the early implementation package. These measures are, one, facilities to automate and improve canal operations of irrigation districts in the Kittitas Valley; the second one, development of groundwater resources within the Roza Irrigation District to provide supplemental water

supplies; the third one is consolidation of several irrigation diversions from the Yakima River for delivery from the Roza Canal.

Mr. Chairman, this concludes our overview of the proposed legislation and our formal remarks.

If you have any questions or comments on these remarks, we would certainly be willing to try to answer them today.

[The prepared statement of Mr. Keys and a subsequent submittal follows:]

STATEMENT

OF

JOHN KEYS

ACTING REGIONAL DIRECTOR
PACIFIC NORTHWEST REGION
BUREAU OF RECLAMATION

REGARDING

YAKIMA RIVER BASIN WATER ENHANCEMENT PROJECT
NONSTORAGE MEASURES BEING CONSIDERED FOR EARLY ACTION

AT YAKIMA, WASHINGTON
JULY 1, 1986

My name is John Keys. I am Acting Regional Director for the Pacific Northwest Region of the Bureau of Reclamation.

I am pleased to have this opportunity to summarize Bureau of Reclamation planning activities on Yakima River Basin Water Enhancement Project nonstorage measures being considered for authorization in Senate Bill 2519 and House of Representatives Bill 4947. As you are aware, the normal planning process involves the preparation of documents containing the engineering, economic, environmental, and cost-sharing aspects of a project. This process provides the Administration with the opportunity to review and evaluate these aspects of the project prior to consideration for authorization. In this instance, the Administration has not had the opportunity for such a review. Therefore, my comments today are limited to the technical aspects of the measures included in the bills.

Since the early 1950's, Reclamation has worked with basin interests on potential ways to supplement the basin's regulated water supply. Most of these earlier efforts recommended new storage reservoirs as the best way to provide significant water supplies. There was interest in these proposals, but support was not unified to the extent that action could be taken.

Many different plan concepts have received preliminary evaluation in the Enhancement Project study. There has been an exchange of information with interest groups through newsletters, planning reports, and meetings. As a result, the study team has recommended that four off-reservation development plans be considered in detail. Results of the studies would be used to help recommend a preferred action. The Yakima Indian Nation is conducting an independent review of Enhancement Project activities. Upon completion of its analyses, the Yakima Nation will make recommendations on preferred plans for inclusion in the overall Enhancement Project.

The off-reservation plans include three categories of activity: (1) a core group of primarily nonstorage measures common to all plans, (2) additional storage capacity through enlargement of Bumping Lake or construction of Wymer reservoir at various capacities, and (3) other nonstorage measures. Preliminary information on these plans was provided in a January 1986 plan formulation report. The measures proposed in the present legislation are among these potential actions.

The study team has made a preliminary evaluation of the nonstorage measures included in the legislation; however, the effect of the measures on fishery resource concerns has not been fully analyzed at this time. I would like to overview the concept, potential water supply added or saved, potential use of such supply, and preliminary cost estimate for each of these measures.

Cle Elum Lake 3-foot Raise

Cle Elum Dam on the Cle Elum River impounds about 437,000 acre-feet at full pool elevation 2240 feet. This storage is used to meet irrigation demands. In recent years, some stored water has been released to aid fish spawning in Cle Elum River. At times prior to 1976, the lake was surcharged (filled to a level above normal full pool), but this operation was discontinued pending modification of the gates controlling spillway releases.

The legislation would authorize modification of Cle Elum Dam spillway gates to to permit regulation of an additional 14,600 acre-feet of water. The elevation of the lake surface would be increased by a maximum of 3 vertical feet (elevation 2243). This would be comparable to the water surface elevation reached under past surcharge operations. Homeowners and boaters would find that the water level of the lake would differ little from present conditions except for a brief period in the spring when the lake would be about 3 feet higher.

About 6,700 feet of shoreline would be protected from erosion through reshaping the shoreline slope and placement of riprap. Wish Poosh Campground facilities would be protected through similar measures. Three sections (about 10,900 feet) of the Salmon la Sac highway along the east side of the lake would be raised. This work would be coordinated with State and Federal highway authorities who are in the process of planning other improvements to the highway.

The increased water supply would become part of the total water supply available for irrigation. Some water may, upon further investigation by Reclamation and fish and wildlife agencies, be available for flow augmentation if such water is not needed for irrigation.

The construction cost is estimated at $3.3 million.

Keechelus Lake to Kachess Lake Pipeline

Keechelus Lake (158,000 acre-feet) and Kachess Lake (239,000 acre-feet) are storage reservoirs that provide water for irrigation in the Kittitas Valley area. Some water is used to maintain flows for fishery purposes below Easton Diversion Dam during the winter.

Water is often spilled at Keechelus Lake during spring runoff. Neighboring Kachess Lake has a lower refill capability. The legislation would authorize construction of a 5-mile long, 5-foot diameter buried pipeline between the two lakes to permit some water spilled at Keechelus Lake to be diverted to Kachess Lake. This would provide additional flexibility in storage system operation. Under the operational assumptions used, an average of 58,000 acre-feet would be diverted annually through the pipeline. Estimates are that the operational flexibility offered by this measure could improve a dry year water supply by about 13,000 acre-feet.

The increased water supply would become part of the total water supply available for irrigation, and would provide fishery benefits. This measure would permit minimum releases from Keechelus Lake for fish spawning and redd maintenance purposes. It appears that maintenance flows of a minimum of about 30 to 35 cubic feet per second could be provided without affecting water supplies for irrigation.

The construction cost is estimated at $4.5 million.

Roza Canal Reregulating Reservoir

The legislation would authorize construction of a reregulating reservoir to improve utilization of water diverted into the Roza Canal. At present, water is diverted into Roza Canal at Roza Diversion Dam for irrigation of about 72,000 acres and operation of Roza Powerplant. About 11 miles down the canal, 1,000 cubic feet per second is diverted back to the Yakima River after passing through Roza Powerplant. From this point down to the Sulphur Creek Wasteway (mile 11 to mile 59) the canal is operated to maintain minimum water surface elevations for about 18 irrigation pump stations.

The present operation results in some waste. The reregulating reservoir would capture this waste. The reregulating facility would consist of a 2,200 acre-foot reservoir on Sulphur Creek above Roza Canal, a pumping station on the canal, and a pipeline and conduit to carry water to and from the reservoir. The pumping station would require about 870,000 kilowatt-hours of energy for operation.

Roza Irrigation District diverts an average of 354,000 acre-feet annually from the Yakima River. Estimates are that the reregulating facility would save about 10,000 acre-feet annually which could be used to improve the district's proratable water supply. In years when supplemental irrigation water is not needed, saved water could be used for fishery purposes.

Construction costs are estimated at $10.8 million.

Automation of Sunnyside Division Operations

The Sunnyside Division provides water service to about 103,000 acres. Yakima River flows are diverted by Sunnyside Diversion Dam into Sunnyside Canal for delivery. The system is not as responsive as it could be to irrigation demand changes. The canal is kept full in order to maintain the water surface elevations needed for canalside irrigation diversions. Water which is excess to irrigation demands and necessary only to maintain water surface elevations is spilled into wasteways.

The legislation would authorize installation of automatically-controlled, gated structures at about 28 locations along the canal. These structures would regulate canal water surface elevations in direct response to diversion needs. Thus, during some periods, lower water surface levels would be maintained, and operational waste would be reduced.

Diversions from the Yakima River into the Sunnyside Canal average about 419,000 acre-feet annually. It is estimated that operational spills would be reduced by 12,500 acre-feet. Water saved through this measure would be used to improve instream flows for fish. Reclamation would coordinate closely with fish and wildlife agencies on timing and use of this water. We believe that these flow improvements should not be regarded as achieving optimum production.

Construction costs are estimated at $10.6 million.

Wapato Indian Project System Improvements

The Wapato Indian Project is located on the Yakima Indian Reservation, and provides an irrigation water supply to about 149,000 acres. Yakima River flows are diverted at Wapato Diversion Dam into the Wapato Main Canal. Some project drainwater is reused, and there is some ground-water development. About 8 percent of the project acreage is owned and farmed by Indians. An additional 48 percent is owned by Indians and leased to non-Indians. The remaining 46 percent of the project acreage is owned and farmed by non-Indians.

The legislation would authorize several improvements in the Wapato system to improve system efficiency. These include lining of about 12 miles of canal, automation of existing gated control structures, and installation of facilities to measure water use.

Project diversions from the Yakima River are about 610,000 acre-feet. An estimated diversion reduction of 50,000 acre-feet could be realized from system improvements. This water supply, for example, would be capable of irrigation development of about 10,000 acres or helping to maintain instream flows for anadromous fish. At this time, however, the Yakima Indian Nation has made no official decision with respect to how the water would be used.

Construction costs are estimated at $10.8 million.

Subordination of Roza and Chandler Powerplants

Water is diverted from the Yakima River to operate the Roza and Chandler Powerplants. In accordance with operating procedures, water use for powerplant operation is subordinate to irrigation needs. That is, when there is water excess to irrigation needs or not capable of being stored, that water is diverted to operate the powerplants. Chandler is usually operated throughout the year, while Roza operates very little during winter months. The minimum flow needed for Chandler operation is about 200 cubic feet per second and Roza is about 300 cubic feet per second.

The legislation would authorize curtailing flows to operate the powerplants in order to increase streamflows available for fish below the Roza and Prosser Diversion Dams. Estimates are that flows below Roza Diversion Dam could be increased from the present 300 cubic feet per second to 350 cubic feet per second. Flows below Prosser Diversion Dam could be increased from the present regime of 50-200 cubic feet per second to 450 cubic feet per second. These flows would enhance fish migration in critical downstream river reaches. This operation would affect about 15 miles of stream below Roza Diversion Dam and 11 miles of stream below Prosser Diversion Dam.

We note that these are "target flow objectives" and are second in priority to irrigation needs. The flow objective is to be met solely by subordination of hydropower generation. Irrigation needs are not to be impacted. Service to the Kennewick Irrigation District requires flows to operate the hydraulic turbines which lift water into the Main Canal. Additionally, the Chandler Powerplant is used as a regulator to compensate for fluctuations in river flows so constant deliveries can be made to the Main Canal. Modifications at Prosser Diversion Dam headgate and placement of check structures in the Chandler Power Canal may be needed to assure efficient operation.

Reduced generation at Roza Powerplant would be minor. Annual generation at Chandler powerplant would be reduced by about 14 million kilowatt-hours, or 24 percent of present annual generation. Estimates of the annual energy cost of this measure vary depending upon the value of energy used. At the highest rate applied in the analysis (32.23 mills per kwh) the value would be about $450,000; at 22 mills the value would be about $300,000.

Overall Effects

The Yakima River water resource is operated as an integrated system of natural flow, return flow, storage and other factors. The effects of the measures described above have been evaluated as a package integrated into the existing system operation.

The total amount of water added or saved to the system would average about 100,000 acre-feet. The water supply available to meet irrigation needs would be increased by about 46,000 acre-feet in water-short years. Study team evaluations estimate that anadromous fish escapement would be increased by about 13,500 adult fish.

The cost of constructing the measures is estimated at $40 million, which includes a $3 million contingency for design and estimate refinement. The legislation stipulates that non-Federal entities are to fund 35 percent of the construction cost, except for the Wapato Indian Project which would be solely a Federal responsibility. Under these terms, the non-Federal share would be about $10.2 million, and the Federal share would total about $29.8 million.

The legislation authorizes further study on three additional nonstorage measures not incorporated in the early implementation package. These measures are:

* Facilities to automate and otherwise improve canal operations of irrigation districts in the Kittitas Valley

* Development of ground-water resources within the Roza Irrigation District to provide supplemental irrigation water

* Consolidation of several irrigation diversions from the Yakima River for delivery from the Roza Canal

If you have any questions regarding my comments or any other aspect of the Enhancement Project, I will be glad to try to answer them or to provide additional material for your use.

United States Department of the Interior

BUREAU OF RECLAMATION
PACIFIC NORTHWEST REGION
FEDERAL BUILDING & U.S. COURTHOUSE
BOX 043-550 WEST FORT STREET
BOISE, IDAHO 83724

IN REPLY REFER TO: PN-205
565.

AUG 1 1986

Honorable Daniel J. Evans
United States Senator
Hart Office Building, Room 702
Second and C Streets
Washington, D.C. 20510

Dear Senator Evans:

Per our agreement with Mr. Joe Mentor of your staff, we are enclosing the quarterly status report for the quarter ending June 30, 1986, on the Yakima River Basin Fish Passage and Protective Facility Program.

Construction activities continue to be very intense on the project. During the past quarter, major fish screens at Wapato, Toppenish/Satus, and Columbia I.D. canals were completed and have entered service. Construction continues on Roza Diversion Dam fish screen structure, left bank fish ladder at Horn Rapids Dam, and Chandler fish screen structure. Construction should begin in the very near future at Wapato Diversion Dam East Branch fish ladders, Roza Wasteway fish barrier, and Satus Creek fish ladder.

During the current quarter, it is anticipated that bids will be received on the Toppenish Creek Diversion fish screen, Kittitas (Easton) Canal bypass (fish screen), and Roza fish screen pumpback facility and ladder modifications.

The program continues to be on schedule for a spring 1988 completion date. Please contact this office if additional information is desired.

Sincerely,

John W. Keys, III
ACTING
Regional Director

Enclosure

QUARTERLY REPORT - QUARTER ENDING JUNE 30, 1986

YAKIMA RIVER BASIN FISH PASSAGE AND PROTECTIVE FACILITIES PROGRAM

This report is made up of the following:

1. Status of the 20 projects included in the Northwest Power Planning Council's Fish and Wildlife Program for the Yakima River Basin
2. Fiscal status - costs and budgets
3. Special interest items
4. Construction schedule bar chart
5. Project photos

YAKIMA RIVER FISH PASSAGE AND PROTECTIVE FACILITIES PROGRAM
STATUS OF THE 20 PROJECTS AS OF JULY 1, 1986

Project	Status
1. Naches-Cowiche	Ladder construction was completed in September 1985. New ladder and screen are in service.
2. Horn Rapids	Richland Canal screen was completed in November 1985. Columbia Canal screen and right bank fish ladder were completed in April 1986 and are in service. Construction on the left bank fish ladder will be complete in July 1986.
3. Sunnyside	Sunnyside Canal screen and right bank ladder entered service in the spring of 1985. Left and center ladders were completed in March 1986 and are in service.
4. Wapato	West Branch ladder entered service in May 1985. Wapato Canal fish screen was completed in June 1986 and is now in service. East Branch ladders bid opening was June 23. Construction is scheduled to begin by August.
5. Toppenish/Satus Unit	Fish screen and ladder were completed in May 1986 and are in service.
6. Prosser	Chandler Canal fish screen construction began in May 1986. A canal bypass around the screen site was completed in February 1986. Prosser Dam right bank fish ladder entered service in May 1986. A fish trap addition to the right bank ladder is in final design and construction is scheduled to start in the fall of 1986. Prosser Dam left and center ladders are in final design with construction scheduled to begin June 1987.
7. Roza Diversion Dam	Construction on Roza screen structure began in December 1985. Placement of concrete walls and floor underway. Completion of this facility is set for March 1987. Screen supply contract was awarded in June 1986. Final designs for the pumpback facility and ladder modifications are complete with a bid opening set for August 12, 1986. Ladder construction will be staged so as not to limit site access to the screen construction.

Project	Status
8. Roza Powerplant	Bid opening for construction of Roza Wasteway barrier was June 3, 1986. Construction to begin in July.
9. Easton	Final designs are nearing completion on fish screen with construction scheduled to begin in February 1987. Bid opening for a canal bypass around the site is set for July 24, 1986, with construction beginning in October 1986. Final designs on the fish ladder have begun with construction set for April 1987.
10. Satus Creek	Ladder plans are complete. Construction is scheduled for the summer of 1986.
11. Toppenish Creek	Bid opening date for this fish screen is set for July 29, 1986. Construction scheduled to begin in September 1986. Construction of fish ladder has been deferred.
12. Town	Revised ladder and screen plans are being reviewed. Construction is scheduled to begin in October 1987.
13. Westside	Final designs have been delayed pending investigation to incorporate Thorpe Mill Diversion into the Westside Canal. Construction now scheduled to begin in June 1987.
14. Wapatox	Improvements to be constructed and funded by Pacific Power and Light Company. Negotiations are underway with PP&L, Washington State, and the Northwest Power Planning Council.
15. Taneum	Planning studies for facilities at four sites are nearing completion.
16. Marion Drain	In final design phase. Construction scheduled to begin in June 1987.
17. Old Reservation Canal	In planning stage.
18. Snipes/Allen	In final design phase. Construction scheduled to begin in June 1987.
19. Thorpe Mill Diversion	In planning stage (see Westside screen status).
20. Stevens Ditch	The work on this facility was completed by the State of Washington during the conceptual period of the program.

2. Fiscal Status

As of June 30, 1986, expenditures on the Yakima River Basin Fish Passage and Protective Works Program were $19,823,000. This figure includes expenditures by the Bureau of Reclamation, Bonneville Power Administration, Bureau of Indian Affairs, and the State of Washington.

3. Special interest items

A. During the quarter ending June 30, 1986, the following fish facility structures were completed and entered into service:

1. Columbia I.D. Canal fish screen
2. Toppenish/Satus Unit fish screen
3. Wapato Canal fish screen
4. Prosser right bank fish ladder

B. The following facilities are currently under construction (scheduled completion dates are in parenthesis):

1. Left bank fish ladder at Horn Rapids Dam (8/86)
2. Roza Diversion Dam fish screen structure (3/87)
3. Chandler fish screen structure (2/87)
4. Wapato Diversion Dam East Branch fish ladders (contract awarded 7/86)
5. Roza wasteway fish barrier (contract awarded 7/86)
6. Satus Creek fish ladder (9/86)

C. Bids for the following contracts will be opened during the next quarter:

1. Toppenish Creek Diversion fish screen
2. Kittitas (Easton) Canal bypass (fish screen)
3. Roza fish screen pumpback facility and ladder modifications

YAKIMA FISH PASSAGE CONSTRUCTION SCHEDULE

July 2, 1986

	FEATURE		AWARD DATE	CONSTRUCTION PERIOD BY MONTHS FY 1985	FY 1986	FY 1987	FY 1988	FY 1989
WASH.	NACHES-COWICHE		11/84	ONDJFMAMJJAS				
BPA	HORN RAPIDS-RICHLAND		4/85	AMJJAS	ON			
WASH/BR		COLUMBIA I.D.	9/85		S	ONDJFMAMJJ		
BPA	SUNNYSIDE	SCREENS & STRUCTURE	8/84	ONDJF				
		RIGHT LADDER	10/84	ONDJFMAM				
		CENTER & LEFT LADDER	9/85		S	ONDJFM		
BPA/BIA	WAPATO	WEST BRANCH LADDER	11/84	NDJFMAM				
		EAST BRANCH LADDERS	7/86			JAS	ONDJ	
		SCREENS & STRUCTURE	10/85		ONDJFMAMJ			
BPA	TOPPENISH/SATUS	SCREENS	10/85		ONDJFMAM			
		STRUCTURE & LADDER	10/85		ONDJFMA			
USBR	PROSSER	RIGHT BANK LADDER	10/85		ONDJFMAMJ			
		CHANDLER SCRNS & STRUCT	5/86			MJJAS	ONDJFM	
		LEFT & CENTER LADDERS	6/87				JJAS	OND
		RIGHT BANK FISH TRAP	9/86			S	ONDJ	
		CANAL BYPASS	12/85		DJF			
USBR	ROZA	SCREEN STRUCTURE	12/85		DJFMAMJJAS		ONDJFM	
		SCREENS & MECHANICAL	6/86			JJAS	ONDJF	
		FISH HANDL & PUMP BACK	9/86			S	ONDJFM	
		LADDER	9/86				AMJJAS	ONDJFM
		WASTEWAY BARRIER	7/86			JAS	O	
USBR	EASTON	LADDER	4/87				AMJJAS	ONDJFM
		SCREENS & STRUCTURE	2/87				FMAMJJAS	ONDJFMA
		CANAL BYPASS	9/86			S	ONDJ	
BPA	SATUS CREEK		7/86			JAS		
BPA	TOPPENISH CREEK		8/86			AS	ONDJF	
BPA/BR	TOWN		10/87					ONDJFM
BPA	WESTSIDE		6/87				JJAS	OND
TP&L	WAPATOX		10/86			ONDJF		
USBR	TANEUM		6/87				JJAS	ONDJFM
BPA	MARION DRAIN		6/87				JJAS	ON
BPA	OLD RESERVATION CANAL		7/87				JAS	ON
BPA	SNIPES/ALLEN		6/87				JJAS	ONDJFM
USBR	THORPE MILL		9/87				S	ONDJFM

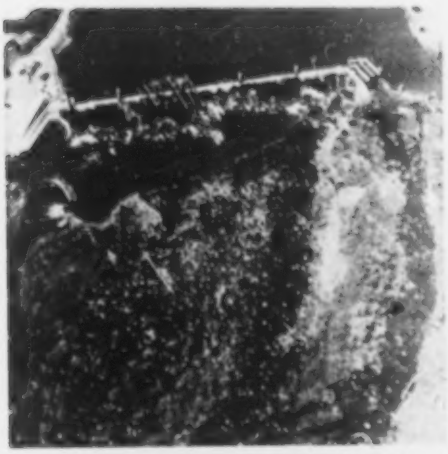
5. Project Photos

Aerial view of completed fish ladders at Sunnyside Diversion Dam. The right bank fish ladder at the top of the photo was completed in 1985. The left and center ladders were completed in the spring of 1986. 6-30-86

Aerial view of Columbia Irrigation District Canal fish screen and Horn Rapids Dam right bank fish ladder. These structures were placed into service in the spring of 1986. 6-30-86

Aerial view of newly completed Wapato Canal fish screen. Yakima River is shown at the top of the photo. 6-30-86

Aerial view of newly completed Toppenish/Satus Creek fish screen. Note Toppenish Creek at the right of the photo. New fish ladder bypassing Toppenish Creek control structure is visible. 6-30-86



Aerial view of Prosser Diversion Dam with newly completed right bank fish ladder at the upper left of the photo. The left fish ladder is scheduled for modification in the summer of 1987. 6-30-86

Aerial view of the Chandler Canal screen site. The canal bypass around the screen site was completed in February 1986. 6-30-86

View of construction progress at Roza fish screen. Old fish screen at head of Roza Canal is at top of photo. Portion of Roza Dam is visible at extreme upper left of photo. Note various pipes used in dewatering site. 6-30-86

Senator EVANS. Thank you very much for a quite complete explanation of the elements of the bill and the results that we hope to obtain.

First, in your testimony on the beginning of page 1 you talked about the study team making a preliminary evaluation of the nonstorage measures included in the legislation; however, the effect of the measures on fishery resource concerns has not been fully analyzed at this time.

At the end you say something about 13,500 adult fish; is that just a preliminary view, or how do those statements correlate?

Mr. KEYS. The last figure has not been verified; it's a preliminary figure from our study team. The main fishery interest has not had a chance to go back into the details and verify those figures.

Senator EVANS. When you say 13,500 adult fish, is that 13,500 adult fish as they start back from the ocean playground, or is it 13,500 back into the Yakima system?

Mr. KEYS. These are spawners, and probably the count is low on the Yakima River not starting at the ocean.

Senator EVANS. So you're saying 13,500 additional spawning in the Yakima?

Mr. KEYS. In the Yakima Basin, yes, sir.

Senator EVANS. And that compares with, I guess, this year, something like 9,000 fish.

Mr. KEYS. I have heard that figure, yes.

Senator EVANS. So this would be a striking addition to that number.

I suppose there is some hope that the completion of the current set of projects will result in additional fish enhancement by itself?

Mr. KEYS. Yes.

Senator EVANS. Could you bring me up to date, this is not quite on the subject of the new proposal, but since you're here I would feel remiss if I did not bring it up: How are you doing on the existing projects, are they going to come in on time? More specifically, are we going to get the Easton project finished on time by fiscal year 1988? Are we going to hit the targets in terms of dollars?

Mr. KEYS. I could say, yes, yes, no, and maybe.

Senator EVANS. I would rather have you say yes, yes, yes, and yes.

Mr. KEYS. Most of our projects are on time. We have slipped on some of them.

The ones we have going right now, we have work on the Roza Diversion Dam going, we have work on the Wapato Diversion Dam; those projects are nearly on time.

The Wapato West screen facility was a couple months late this year, but it is operating right now.

Work on the Roza is pretty much on schedule.

Easton work has been delayed. We are probably going to be a year behind on Easton work.

Senator EVANS. What has caused the delay?

Mr. KEYS. We ran into severe design problems in trying to locate the screen facility, deciding how to ladder the dam, and we ran into short construction seasons up there.

We are in the design process.

Senator EVANS. We haven't run into short construction seasons yet, we haven't started construction.

Mr. KEYS. That's correct.

Senator EVANS. What did we do; misestimate the size of our construction season?

Mr. KEYS. That's part of the problem, yes.

Senator EVANS. I guess, this probably isn't a forum, but I want to talk to you more.

Mr. KEYS. I would certainly be willing to submit a detailed accounting of all of those projects.

Quarterly, we do send you a report, but I would certainly update that before that time.

Senator EVANS. OK.

Keechelus/Kachess pipeline will save, as you say, about 13,000, or more, acre-feet of either saved or added water through the reregulation.

How much will be added storage at Kachess, and how much will be saved by reducing the irrigation releases on that upper stretch?

Mr. KEYS. We'll divert across there about 58,000 acre-feet a year; that will be the same storage water.

About 30–35 cubic feet per second will be released for the additional fishery benefit there.

The transfer of that 58,000 acre-feet would result in 13,500 acre-feet of additional water for TWSA.

Mr. Vinsonhaler could probably add something to that.

Senator EVANS. Mr. Vinsonhaler.

Mr. VINSONHALER. One of the merits of the Keechelus/Kachess pipeline is it permits you, during the spawning season, to lower your releases out of Keechelus and make releases out of Kachess.

What this does, it means when Easton Dam is completed, your spawners will move up, the spawner door closes, and then you can have incubation water released.

Right now, this high flow is used in the spawning season, and then it becomes a problem during the winter with incubation flow.

So this adds considerable flexibility to this upper reach.

Senator EVANS. Can you recognize what's happening there as something sort of similar to the water budget concept on the main stem of the Columbia? In other words, the availability of a chunk of water to be used in a more flexible manner when it does the most good?

Mr. VINSONHALER. Yes, I would. When it does the most good, both for irrigation and the fish.

Mr. MORRISON. First, the missing member of the team is Gary Kitterman. So would you, on behalf of all of us who worked on the project, express our very best to Gary who we understand will not be working on this project. We miss him and we appreciate the efforts that he personally put into the Yakima Basin enhancement program.

Mr. Keys, a question for you.

In the process that you follow within the Bureau, I know you're enthusiastic about this, you've done a great job of presenting your analysis of the early implementation features that we've included in our legislation, as you see it winding on through the bureaucracy up to the Federal level, how enthusiastic will the Bureau be in

Washington, DC, with helping us get the funding that is required for this early implementation?

Mr. KEYS. I'm glad you asked that question, because over the last 3 days we worked personally with our commissioner on the testimony we gave today. We have his whole-hearted support for this project.

One of the big reasons that he's supporting the project is that we're moving ahead with the nonstorage facilities now rather than waiting on the storage. In other words, trying to get something done now to get the support behind the storage so that we can do the whole project.

I can assure you that our commissioner, right now, supports the work that we're doing.

One of the problems you might see in the statement is that the administration still hasn't had a chance to review all of our proposals that are included in this package.

I can assure you that our commissioner shares our support in this.

Mr. MORRISON. Are we undoing ourselves at all with early implementation as far as the Bureau is concerned by undercutting the big issue which we have heard over and over and over today, and that is we have to have additional storage capacity?

Mr. KEYS. No, sir, I don't think you're undoing anything. I think you're shortening it up by showing that the people of the State of Washington are willing to participate in the project and go ahead and get to where we can put some storage in. So I don't think it's undoing anything; I think it's helping.

Mr. MORRISON. We do too.

Just one last question.

I'm always concerned about some of these fish counts.

I'm wondering if the Bureau, I know this is not your primary responsibility, puts any pressure on other agencies, such as the fishery folks you work with; isn't there a weakness in basing our counts on the number of fish that return, because of high technology and the ability to catch those fish, isn't there potential that we will be basing our obligation for fish purposes on something over which we have no control?

Mr. KEYS. That's a good thought.

I don't hardly have an answer for that. It's something that we should take into consideration.

Mr. MORRISON. I guess I mention it only because I see high technology, in foreign nations and so forth, catching these fish that we're talking about coming back. If they don't return, then we have shorted the plan; I don't think that can be blamed on the Bureau or any of us that have desired to reestablish the fishery resources.

Is there some way that production could be conted on the number of fish that leave the area, as opposed to those that return?

Mr. VINSONHALER. Congressman, we can count both ways.

We show 13,500 coming back, and about 50,000 being harvested.

I think your question pertains to adoption of good management techniques on the fisheries.

I understand the State of Washington, the State of Oregon, Intertribal Fish Commission is in touch with those issues.

Mr. MORRISON. Thank you.

Senator EVANS. I might just add that, from work on the council, I think there are some pretty good answers to that.

In the first place, it was critical to sign a treaty with Canada, which clearly enhances the fishery beyond the base that was there at the time of the treaty.

The enhancement accrues to the person who uses it, whether native to the United States, or otherwise.

We have just about run any foreign fishermen out of the salmon waters, including the Japanese, and the rest of it is pretty much within a 200-mile limit. I think they have learned to count pretty well.

Besides, the courts require, under some of the well-known court decisions, that the opportunities for treaty fishermen catching 50 percent of the fish is more than just an opportunity to fish in an empty river.

It is traditionally where there are fish, there is supposed to be fish. I think it's up to the fish managers to make sure that the fish that are enhanced here get back here, otherwise we really fail in our responsibilities.

Perhaps I can give the next panel, I will give him about 5 minutes of warning, Bob Turner is here from the Washington Department of Fisheries. So you might get a chance to dispute that question.

Mr. MORRISON. That's why I asked.

Senator EVANS. A question on the chart.

There is 100,000 acre-feet of water saved or added, but you show none under the powerplant subordination, yet in the books you do show, in April 1986, the powerplant's subordination lists, the diversion reductions, at Roza, 15,000; why do you put none up there, or there isn't any? If there is none, then why are we doing it?

You also say there is no cost to subordination, but there is a loss of revenue, which is certainly a cost?

Mr. KEYS. While he is getting that, I can answer the cost part of that.

That cost is a benefit-cost calculation, but it is not capital costs. All the costs you see, most of the costs, are capital costs.

Senator EVANS. Most of the costs are capital costs; are all of them, or aren't all of them?

Mr. KEYS. Well, there are a few operational costs in there.

Senator EVANS. If that's true, then why aren't the operational costs in both charts?

Mr. VINSONHALER. Senator, these are all construction costs here [indicating].

In addition, there would be some minor operational costs.

The number you quoted from the report, what they do is they reduce diversion for power generation and let that water go on downstream for instream flows. The concept is to try and maintain, the best I can, 450 cubic feet per second in this reach of the river. So the reduction is associated with reducing generation and maintaining the flows in the main stream Yakima.

Senator EVANS. But that's not counted as water saved?

Mr. VINSONHALER. No.

Senator EVANS. Why not?

Mr. VINSONHALER. We're showing, by using it, to maintain stream flows, not storing any water, just letting it go over the diversion to pick up these instream flows.

Senator EVANS. You're saying that otherwise it would go down the main stream flows except that it would miss certain stretches of the river?

Mr. VINSONHALER. Right now, the water is diverted. It goes to the powerplant.

We're talking about an 11-mile region that we're going to enhance.

Senator EVANS. I guess that's when you had preliminary evaluations made of nonstorage elements being considered for early implementation, the diversion reduction of 15,000 acre-feet, in Chandler it's 140,000 acre-feet.

Is diversion reduction a different concept than water added or saved; I guess it must be?

Mr. VINSONHALER. In the case of the ones you see up here, it's a diversion reduction, also.

On SVID, by reducing diversions, or saving water, reducing diversions by 12,500 acre-feet.

What we're doing is just taking this water and try to put it in storage and regulate it for reuse. This is maintaining instream flows in that neck of the river.

Senator EVANS. Have you tried to identify the non-Federal share, cost share, some of those elements are purely related to improving water availability for irrigation projects, some have at least a share to improve water flows for fish; have you tried to identify or distinguish between the two and assign some Federal dollar value to the non-Federal share for each of these purposes?

It seems to me that that's critical to do, so if there is going to be any efforts on the part of the council to have Bonneville's ratepayers support some of this, they obviously can only support that share that would result in some fishery enhancement.

Mr. KEYS. We haven't made a cost allocation yet. That is some of the economic studies yet to be done.

Senator EVANS. That is important to do if there is any potential of some share of non-Federal costs coming from Bonneville, at least clearly as identified in this issue.

Is there a timetable on the development of that?

Mr. KEYS. We hope to have those figures within the next couple of months, with the report available by the end of the year.

Senator EVANS. It seems to me it is important, Rick Applegate, in his testimony, that they are already past the time to submit some of these programs or policies for their next amendments to the Fish and Wildlife programs. So time would be of the essence.

Is there any way to hurry that up?

Mr. KEYS. Yes. We would try to have those figures available for you and the power council by early August.

Senator EVANS. That's very helpful.

We will have several other questions for the record.

Thank you very much. Excellent presentation.

Panel No. 2, State of Washington, Andrea Beatty Riniker, director of the Washington Department of Ecology; Alan Pettibone, director of the Washington Department of Agriculture; Bob Turner,

assistant director of the Washington Department of Fisheries; Gale Blomstrom, Washington Department of Game.

All four of you are here. You had better pull up another chair, or somebody is going to be sitting in somebody's lap.

We welcome you here, and are delighted that the State is participating.

Ms. Riniker, would you start.

STATEMENT OF ANDREA BEATTY RINIKER, DIRECTOR, WASHINGTON STATE DEPARTMENT OF ECOLOGY

Ms. RINIKER. Thank you, Senator Evans; good morning to you, as well, Congressman Morrison.

I am Andrea Beatty Riniker, the director of ecology.

We are very appreciative of the fact that we're moving forward on the Yakima Enhancement Program, and that the leadership that you, Senator Evans and Congressman Morrison, have shown both in the past and right now is very important to the success of this project and our collective ability to address the issue in the Yakima Valley.

This morning I would like to speak on behalf of ecology, agriculture, and fisheries.

I would like to introduce Alan Pettibone, the director of agriculture; Bob Turner, the assistant director of the department of fisheries and Gale Blomstrom, who will make a separate statement, from the department of game.

The Ecology, Agriculture, and Fishery Departments are, in fact, united in support of this bill that is before you today. We think this is quite significant that these three departments, that have sometimes had opposite views on such issues, are united.

We think the significant reason is that this project benefits a wide variety of interests in the Yakima Valley.

Each of us, from one perpective or another, has been made well aware of the turmoil in the valley caused by the demand of water exceeding flow.

Many of us know individual farmers who have been refused operating loans because of the uncertainty of future water supply.

Many of us are aware of the kind of time and expense, the effort, the resources involved in the alternative to the Yakima enhance project, which would be the adjudication. And we're painfully aware that the adjudication would not add one additional drop of water to the system.

Many of us have known or have come up against the potential for water disputes that pit one neighbor against another, and, in fact, leave the valley divided for years.

These kinds of problems and issues come home to us particularly in a year like this year where the forecasts indicate to us that we're just going to sweep by in terms of the amount of water that is available to us in the Yakima Valley.

It is absolutely important to us, as the State of Washington, and I'm glad to see for all of us, to address these kinds of problems now. We did a tour of the valley a couple of months ago and talked to people about how we thought this was the time and it was important to move forward; and this bill does exactly that.

We support the bill because it allows a greater efficiency in the use of water in the existing system because it provides additional water for both agriculture and fish interests, and because it's really a model of the kind of thinking that we see happening in the Western States about how water projects need to be conceived in the future. It is an example of maximizing our conservation before we really invest enormous dollars in new construction.

Gov. Booth Gardner supported earlier State legislation, and supports this bill because it suggests that a win-win on water issues can occur and that compatibility can supersede conflict even on water issues in the Yakima Valley.

We do not view this as an alternative to the Yakima enhancement project as it was conceived in 1979. In fact, some difficult issues, like the restoration of water appropriated for fish by the Federal courts, are not dealt with here in this early implementation phase but clearly do need to be dealt with as we address the entire Yakima enhancement project of the early implementation. This will provide an important piece of that project, a step that can, and should be, taken now.

The State of Washington recognized the urgency and the necessity for completing the Yakima enhancement project and arrived at a preferred plan.

The State legislature, as you have heard this morning, passed, and Governor Gardner signed, new legislation in April 1986, substitute Senate bill 4418.

This bill provided, in part, $250,000 for continuing and expanding the State participation in the enhancement project. That's in addition to the $20 million that we have spent over the last 7 years in improvements in water in the Yakima Valley. It also emphasizes, in this piece of legislation, the need to identify and to advance, as you're doing here today, project elements which have general public support, acceptable cost-sharing arrangement, and meet the objectives of the study as it was originally perceived.

During the course of the enhancement project study, it was clear that there were certain projects and certain measures that were viable and would become a part of any preferred plan that was put forward. It was also realized that some of these preferred measures might be developed prior to final authorization.

This issue of taking some pieces first is not a brand new one.

Among the measures that were considered for early implementation for fish passage, and protection facilities, and various improvements in water supply and irrigation systems. As a result, early construction of fish passage and protection to facilities was authorized by Congress 2 years ago. Many of these facilities are now completed, or under construction. The State has financed two of these projects. Others are partially financed out of other non-Federal sources through the Bonneville Power Administration.

One of these facilities, frankly, is causing a good deal of discussion right now. It's the facility at Lake Easton.

We propose that the use of this facility be coordinated with the construction of the Keechelus/Kachess pipeline.

Further, our Fisheries Department has gone on record indicating that they will not take the initiative to regulate for fish until we have some additional water resources in that stretch.

Authorization of other early implementation measures is being considered today. Proposed legislation includes a number of those measures that have the potential for providing water savings that could be used for instream flows and supplemental irrigation during water-short years.

Turning to the proposed legislation, we recognize there are several issues which require early State attention or action. We see the following as some of those key points; the first is cost share. I think the record is very clear that the State of Washington has been in the forefront for many years in working with the Federal Government in a participatory role. We have joined with the Bureau on the Columbia Basin and other Yakima causes; examples, fish passage and protection facilities, and the Yakima enhancement study itself. However, in each of these instances the cost-share arrangements were left to negotiation between the State and Federal agencies.

We understand, particularly in this day and time, a cornerstone of national water project funding policy is for Federal agencies to seek new partnership arrangements with the State, and with others. Each Federal agency is to negotiate reasonable financing arrangements for its project.

At the State level, our legislature has recognized the reality of cost sharing, and I think that you heard some of that this morning. This partnership approach was reaffirmed in the last legislative session in substitute senate bill 4418.

Keeping the State cooperation in mind, let me say that section 7 of the proposed Federal legislation causes me some concerns. The section provides for 35 percent non-Federal financing of total construction cost of the facilities other than those of the Wapato Indian project. This provision may preempt State action, which has not been taken as of yet by our State legislature.

Whether 35 percent is an acceptable cost sharing arrangement, it is something that we still need to discuss with them in the upcoming session.

This leads me to three main points I'd like to make on cost-share. First, we support the 35 percent non-Federal cost-share conditions for this phase of the Yakima project, but we obviously cannot commit our State legislature to all or any portion of this amount in advance of their legislative session starting in January.

Second, our support for 35 percent cost share is limited to this phase of the project only. We support a case-by-case negotiation for future elements of the Yakima enhancement project.

And, third, since certain elements of proposed legislation, such as the Sunnyside Diversion Dam, will benefit fish and wildlife, it should be made very clear that these activities are being included in the Northwest Power Planning Council's Fish and Wildlife Program and should be eligible for funding under the Bonneville Power Administration.

Our second general area of concerns has to do with water rights.

Implementation of the early action items contained in the proposed legislation involves transfer of irrigation water rights to instream flows for fish, new water rights for additional raising of Cle Elum, instream flow consideration for the powerplant subordination, and other water right kind of changes.

Our actions, in addressing these issues, will be governed by the axiom that existing water rights are preserved and protected. Our intention is to develop procedures at Prosser where new water rights can be assigned and water rights transferred with the acceptance of involved parties, while protecting the existing rights.

Provisions of sections 3, 4, and 5, result in either an allocation of water or an identification of priority for water use. Although we do not take exception to the intent of those sections, we request that a provision be included that requires any changes in existing water rights or protection of new rights be effected in accordance with, and under State law.

There are two other specifics that I would like to point out.

Section 2 provides that fish passage facilities and the early implementation facilities under consideration shall be considered features of the Yakima enhancement project, if such project is authorized.

We ask that the phrase "if such project is authorized" be deleted. The reason is that the withdrawal of the unappropriated waters of the Yakima River, filed by the Bureau of Reclamation in 1981, is for the benefit of the Yakima enhancement project.

Appropriations of water are inherent in several of these early implementation elements. It is crucial that these elements be recognized as part of that project, notwithstanding fate of the final enhancement program.

No. 2, as a final comment, the feasibility studies identified in section 10 should receive congressional appropriation for fiscal year 1987, in order that the results will be available in a timely manner.

In conclusion, we support this legislation with the above considerations and changes. We believe that the measures, the early implementation measures, will improve the efficiency of the existing water supply and irrigation system, and concurrently provide some additional water supplies for fisheries and supplemental irrigation.

Thank you very much, Senator Evans; thank you, Congressman Morrison, for your attention and the opportunity for us to present our views and discuss what is a very important subject to the State of Washington.

[The prepared statement of Ms. Riniker follows:]

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STATEMENT OF

ANDREA BEATTY RINIKER, DIRECTOR

WASHINGTON STATE DEPARTMENT OF ECOLOGY

ON BEHALF OF

DEPARTMENT OF ECOLOGY

DEPARTMENT OF AGRICULTURE

DEPARTMENT OF FISHERIES

TO

SENATE SUBCOMMITTEE ON WATER AND POWER

REGARDING

S 2519 - AUTHORIZING CERTAIN

ELEMENTS OF THE YAKIMA RIVER BASIN WATER ENHANCEMENT PROJECT

YAKIMA, WASHINGTON

July 1, 1986

Good morning Mr. Chairman. I am Andrea Beatty Riniker, the Director of the Washington State Department of Ecology.

I first want to express my most sincere thanks to you and Congressman Morrison for your leadership and active support in addressing the water resources problems of the Yakima River Basin. Your interest in providing for the water supply needs of this area are widely known and appreciated.

I am speaking here today on behalf of the Washington State departments of Ecology, Agriculture, and Fisheries and I think the fact that all three agencies are united in support of the bill before us today is very significant.

All of us here today are well aware of the turmoil caused in the Yakima River Basin because the demand for water exceeds the flow of the river.

Many of us know a farmer who has been refused a crop loan because of the uncertainty of his future water supply.

And think of the impact on our court system where a massive adjudication case, with about 2,000 defendants, will create a mountain of paperwork and take a huge amount of judicial time.

Indeed, this water issue in some cases pits neighbor against neighbor and threatens to leave the valley divided for many years.

All these problems come home to us again this summer as we hear estimates of a borderline water year and predictions that we will just squeak by.

I believe the legislation before us today is another important step in helping resolve the water problems plaguing the Yakima Valley.

This bill is important because we must move forward immediately. We can't wait for completion of the Yakima Enhancement Project Study, which still may be two years away.

We already have under construction fish passage protection facilities. Now it is time to move on to water conservation measures and show our commitment to solve the problems in the Yakima River Basin.

I also support this bill because I think it is a model in terms of the kinds of things Western states are doing today. Western governors soon are expected to endorse concepts of water conservation similar to the provisions of this bill.

This legislation also provides a win for agricultural and fishing interests. It will provide additional water supply for farmers by raising the Cle Elum reservoir and improving the efficiency of delivery systems in several irrigation districts.

Fisheries and wildlife win because in-stream flows would be increased due to conservation measures and reduced power production at the Chandler and Roza power plants.

So I am pleased to convey Governor Booth Gardner's pledge to support this legislation. We believe it attempts to reconcile some of the inherent difficulties between the fisheries and agricultural industries. It suggests compatibility can supersede conflict.

The proposed bill is a logical next step in realizing the goals of the 1979 federal legislation which authorized the Yakima River Basin Water Enhancement Project. A primary objective of the project is to achieve efficient utilization of existing water supplies. The proposed legislation will go far in meeting that objective.

In direct response to the urgency and necessity for completing the Yakima enhancement project and arriving at a preferred plan, the state Legislature passed and Governor Gardner signed new legislation in April 1986 (Substitute Senate Bill 4418). This bill provides, in part, for the appropriation of $250,000 for continuing and expanding state participation in the enhancement project. It also emphasizes the need to identify and advance for federal authorization project elements which have general public support, acceptable cost sharing arrangements, meet study objectives and otherwise have potential for early implementation.

During the course of the Enhancement Project Study, it was clear certain measures and projects were viable and would become an element of any preferred plan that was eventually authorized. It also was realized some of these "preferred" measures might be developed prior to final authorization of the full enhancement project. Among the measures considered for early implementation were fish passage and protection facilities and various improvements in the water supply and irrigation systems.

As a result, early construction of fish passage and protection facilities was authorized by Congress two years ago. Many of these facilities are now completed or under construction. The state has financed two of the projects. Others are being partially financed out of nonfederal sources through the Bonneville Power Administration.

Authorization of other early implementation measures are being considered today. The proposed legislation includes a number of measures that have the potential for providing water savings that could be used for instream flows and supplemental irrigation during water short years.

Regarding the proposed legislation, we recognize that there are several issues which will require early state attention and/or action. We see the following as key points:

Cost-Sharing - I believe the record is clear that the state of Washington has been in the forefront for many years in working with the federal government in a partnership role. We have joined with the Bureau of Reclamation in both the Columbia Basin and Yakima projects. Examples are the Second Bacon Siphon and Tunnel, fish passage and protection facilities and the Yakima Enhancement Study itself. However, in each of these instances the cost share arrangements were left to negotiation between the state and federal agencies.

We understand that a cornerstone of the national water project funding policy is for federal agencies to seek new partnership arrangements with the states and others. Each federal agency is to negotiate reasonable financing arrangements for its projects.

At the state level, our Legislature has recognized the reality of cost-sharing. This partnership approach was reaffirmed in the last state legislative session with passage of Substitute Senate Bill 4418. Keeping the state's commitment to cooperation in mind, let me say Section 7 of S 2519 causes me concerns. The section provides for 35 percent nonfederal financing of the total construction costs of the facilities other than those of the Wapato Indian Project. This provision may preempt state policy. Whether 35 percent is an "acceptable" cost share arrangement is something we must still discuss with our state Legislature.

This leads me to three points I wish to make on cost sharing. First, although we support the 35 percent nonfederal cost sharing provision for this phase of the Yakima Project, we obviously cannot commit our state Legislature to all or any portion of this amount. Secondly, such support is limited to this phase of the project only. We support case-by-case negotiation for future elements of the Yakima Enhancement Project. Third, since certain elements of the proposed legislation, such as the Sunnyside Diversion work, will benefit fish and wildlife, it should be made clear that these activities are to be included in the Northwest Power Planning Council's fish and wildlife program and be eligible for funding under the Bonneville Power Administration Program.

Water Rights - Implementation of early action items contained in the proposed legislation involves transfer of irrigation water rights to instream flows for fish; new water rights for the additional water provided by the raising of Lake Cle Elum; instream flow considerations for the power plant subordination; and other water right changes. Our actions in addressing these issues will be governed by the axiom that existing water rights are preserved and protected. Our intention is to develop procedures and a process whereby new water rights can be assigned and water rights transferred with acceptance of involved parties while protecting existing rights.

Provisions of sections 3, 4, and 5 result in either an allocation of water or an identification of priority for water use. Although we do not take exception to the intent of the legislation, we request that a provision be added that requires changes in existing water rights or perfection of new rights be effected in accordance with and under state law.

General - We wish to specifically comment on several provisions of the proposed legislation. These comments are as follows:

1. Section 2 provides that the fish passage facilities and the early implementation elements under consideration shall be considered features of the Yakima Enhancement Project if such project is authorized. We ask that the phrase "if such project is authorized" be deleted. The reason is that the withdrawal

of the unappropriated waters of the Yakima River filed by the Bureau of Reclamation in 1981 is for the benefit of the Yakima Enhancement Project.

Appropriations of water are inherent in several of the early implementation elements and it is crucial that these elements be officially recognized as part of the project, notwithstanding the fate of the final enhancement program.

2. As a last comment, the feasibility studies identified in Section 10 should receive Congressional appropriation for Fiscal Year 87 in order that the results be available in a timely manner.

In conclusion, we support S. 2519 with the above considerations and changes. We believe that the measures in S. 2519 will improve efficiency of the existing water supply and irrigation system and concurrently provide some additional water for fisheries and supplemental irrigation.

Thank you, Mr. Chairman for the opportunity to present our views and discuss this important subject with you.

Senator EVANS. Do you wish to have others make any comments?
Ms. RINIKER. I think that Gale has separate comments.
Senator EVANS. Ms. Blomstrom.

STATEMENT OF JACK S. WAYLAND, DIRECTOR, WASHINGTON STATE DEPARTMENT OF GAME, AS PRESENTED BY GALE BLOMSTROM

Ms. BLOMSTROM. Thank you, Senator Evans, Congressman Morrison.

I'm Gale Blomstrom, and I'm here speaking on behalf of Director Jack Wayland and the Department of Game.

We, too, our agency, joins with the other State agencies in support of this bill.

I just wanted to make a very brief statement here today to say that the Department of Game wants to go on record in support of Senate bill 2519 and House bill 4947 for the construction and operation of the nonstorage elements associated with the Yakima River Basin water enhancement project.

As we have in the past, we continue to support means and methods to provide supplemental water in the Yakima Basin to meet the demands of both fisheries interests and irrigation interests.

At this time we don't have specific comments, but we intend to provide specific written comments for the record on the particular items of concern that we have

That's all I have to say.

Thank you very much, Senator.

[Letter submitted by Mr. Wayland follows:]

JACK S. WAYLAND
Director

STATE OF WASHINGTON
DEPARTMENT OF GAME
600 North Capitol Way, GF-11 • Olympia, Washington 98504-0091 • (206) 753-5700

July 16, 1986

The Honorable Daniel Evans
United States Senator
Senate Office Building
Washington D. C. 20510

RE: S2519 Yakima River Basin Water Enhancement Project

Dear Senator Evans:

The Washington Department of Game is pleased to have the opportunity to comment on S2519, a bill to authorize certain elements of the Yakima River Basin Water Enhancement Project. We offer these comments for inclusion in the public record.

Our agency supports S2519. This is consistent with our longstanding support of YRBWEP to provide supplemental water for irrigation and fish. Our involvement in YRBWEP dates back to 1981 when Department of Game of biologists made preliminary evaluations of potential reservoir sites. Since that time, Department of Game staff has worked directly with the study team to identify and evaluate alternatives that provide the greatest benefit to fish, wildlife, and irrigation with the least environmental impact. Our comments in support of YRBWEP date back to 1982, and as early as 1968 our agency formally expressed support for Bumping Lake enlargement. We continue to support additional water storage for the Yakima Basin. S2519 is the logical first step in implementing the YRBWEP and toward meeting the Basin's water demand. We believe implementation of the non-storage elements identified in the bill can reduce the severity of water shortages in dry years and greatly benefit both fisheries resources and irrigation.

We wish to make several general and several specific comments on the bill. First, the United States Bureau of Reclamation has estimated that implementation of the non-storage elements in S2519 would provide roughly 100,000 acre feet of water added or saved. The potential availability of this additional water should not preclude the need for continued water conservation.

Second, we believe strongly that any water saved or added as a result of this bill should be used for currently irrigated lands in the Yakima Project. No new lands should be irrigated with these waters. We would like to see language in the bill reflecting this.

Our third comment is in the form of a question. Theoretically, during average or better than average water supply years, the additional 100,000 acre feet would not be needed. How will that water be managed? Who would have priority?

Our recommendation would be to use that water for instream flows and to maintain minimum pool levels in the reservoirs, especially Rimrock. Rimrock Lake supports a $350,000 kokanee fishery that is severely impacted by draining or excessive drawdown. Additional water to maintain a 30,000 acre feet minimum pool would provide significant resident fish benefits. Draining of the reservoir results in an economic loss to the fishery in excess of one million dollars because it takes 3 to 4 years to reestablish the kokanee fishery.

A fourth and final comment regards subordination of power generation. In addition to Roza and Chandler, we would like to see consideration given for subordination of Wapatox as well. Although Wapatox is not a federally licensed project, we think it appropriate to investigate the feasibility of its power subordination to provide additional flows in the Naches River. This could perhaps be included in Section 10 of the bill under the feasibility study.

In conclusion, the Department of Game endorses S2519. We see this bill as a means to solve some of the basin's greatest water resource problems. We believe this project is unique in that it has earned support of virtually all water users and interest groups: federal and state agencies, elected representatives, fisheries interests, irrigators, conservationists, and the Yakima Indian Nation. We hope this will send a clear signal to Congress and result in their early passage of this bill. And finally, we would like to extend our thanks to you and Senator Gorton for introducing this bill in the Senate and Representative Sid Morrison for introducing companion legislation in the House.

Thank you for the opportunity to provide these comments.

Sincerely,

THE DEPARTMENT OF GAME

Jack S. Wayland
Director

JSW:rh

cc: Senator Slade Gorton
Representative Sid Morrison
Booth Gardner, Governor

Senator EVANS. Thank you very much.

Ms. Riniker, do you believe that S. 2519, if it were to be passed, would require any change in State law in order for the State to fully do its share of the requirement to carry it out?

Ms. RINIKER. We're examining that right now. We're looking at whether there are any options that would exist for us so that we would not have to pursue additional legislation.

We should have an answer on that in about 30 days.

Senator EVANS. You mentioned 35-percent non-Federal, that clearly refers just to this act and this doesn't refer to any other enhancement project. It seems to me that that is clear in the act itself.

I might say that 35 percent, or whatever other figure is chosen, may not be a negotiable item. That's the kind of thing that is much more likely to be part of a developing national policy on non-Federal shares of all kinds of water projects, everything from dredging and harbor development to water ways to irrigation, and all the rest, and while we haven't quite gotten there yet, by the time we get to the Yakima enhancement project in the final phase, we may have gotten there, and it may not be negotiable.

Ms. RINKER. I will carry your message back to the Governor and the legislature.

I guess what I wanted to make particularly clear was that in our supporting this that the legislation has not taken any official action, as a legislature, to adopt the 35-percent cost share. I wanted to make sure that you were clear about that.

Senator EVANS. I understnd that.

It may well be possible that the 35-percent non-Federal cost share will be further shared between the State directly, the ratepayers, and others for whom there may be some other benefit.

I'm not sure I quite understood your comments on section 2 and the inclination of the term "if such project is authorized." We have generally used that same term in the previous two pieces of legislation that have resulted in the construction now going on in the Yakima. I guess I'm not quite sure what you were suggesting.

Ms. RINIKER. It has to do with the reallocation of water and the fact that for the water to be reallocated, based on the withdrawal that was made in 1981, it does need to be connected to that withdrawal that the Bureau filed on that date by our expert.

Senator EVANS. Two things, you have to get the microphone, and then formally identify yourself.

Mr. FIELDER. I'm Glen Fiedler with the department of ecology.

In the fish passage legislation, it was clear that the facilities would be operated with existing water supplies. There were no water right issue concerns in that legislation.

In this legislation, as Ms. Riniker indicated, there will be waters in question, and with the United States withdrawal of the water, being specific for benefit of the Yakima enhancement project, we have a water right application that would come to us under any of these activities.

We need a security that, yes, indeed Congress recognized that these are elements of the Yakima enhancement, otherwise we feel it is a legal defect if a withdrawal was filed by the United States.

Senator EVANS. I'm not sure I quite understand.

It is clear that the Yakima enhancement project is not authorized. We haven't certainly authorized the final legislation.

Ms. RINIKER. Would it be helpful if we had our legal counsel put something together about his analysis of that?

Senator EVANS. Chances are maybe 50/50 that we'll get clarification from any legal knowledge.

The answer is, "yes."

That was just my crack that sometimes lawyers fog things up rather than clarify.

Ms. RINIKER. We would be happy to do that.

Senator EVANS. Congressman Morrison.

Mr. MORRISON. I would like clarification on your comment on the operation of the Easton facility as I think I heard you say that there would not be additional water demands for the operation of that facility until we had additional reservoir capacity to satisfy those demands.

Ms. RINIKER. I'm happy to respond to that.

You may want to have Bob respond as well.

In our visits previously through the valley, we did discuss this issue, and Mr. Wilkerson, our fishery director, did follow up with a letter stating that it was his intent that he would not be pursuing the fish enhancement up there when the additional water was available from the Keechelus/Kachess pipeline.

Mr. MORRISON. In other words, Quackenbush will not emerge until there is something to show them.

Ms. RINIKER. I'm not sure we control all of that.

Mr. TURNER. That is correct, at least as far as the State is concerned. We recognize that completion of the facility at Easton and completion of the pipeline are really complementary, and one without the other might exacerbate the problems of water flow in the upper reaches, and we do not wish to see that occur. We would rather have those occur simultaneously, or at least in conjunction with one another, so that any uses of the water are mitigated and meet the needs of all the users until different storage is available to improve the situation.

Mr. MORRISON. I appreciate the State's position on that.

That was a great concern of some people in this area since the rest of the fish enhancement facilities were, in fact, water mutual, but that requires some additional water to make it operate.

While you have the microphone, now that you've had 25 minutes of notice, just a quick comment, if you would, on a concern that has been expressed that without proper management in using the process of counting the fish who escape, all of the contrivances which man chooses to pursue them, that we may be using a measurement that we can't live up to.

Mr. TURNER. Well, two comments on that.

One, is, I think, if I can steal a term from the Wapato Fish Commission, 15 years of gavel-to-gavel management of the fish has led us to believe that gravel-to-gravel management is really where we ought to be.

Beginning about 3 years ago, I think, both the fish agencies and the tribes got very serious about that, controlled through the Pacific Fisheries and Management Council, that harvested salmon off Washington-Oregon coasts, and got very near negotiations with

Canada relating to the interception of the various fish that we're talking about, in Canada and Alaska, were about to, I hope, optimistically to conclude negotiations on United States via Oregon, which controls harvest in the main stem of the Columbia, and also guides the planning in the subbasins of the Columbia River for the harvest sharing between treaty Indians and non-Indians throughout the Columbia Basin. That includes the Yakima River.

Certainly, in our world, those have been very major hurdles, and we're not about to, neither ourselves nor the tribes, jeopardize those successes in the last 3 years by allowing mismanagement in the subbasins to basically undo the good things that have been happening in the ocean and in the main stream of the Columbia. In that regard, we realize we have increasing responsibility of half the State fisheries in western Washington, and enforcement is a big part of it.

We've just put our first enforcement officer in Yakima in the last 6 weeks, with the very concern that you just raised.

Mr. MORRISON. Can we divide at this point, if we look at the increase in fish population, which is a delight to all of us, can we divide between better management practice, which you just described, and some of the mechanical apparatus that we have put in the river?

Mr. TURNER. I don't think that we can do that with a great deal of confidence, at least at this time, because so many things have occurred simultaneously.

Last year was the first year we saw fish returning because of United States/Canada. But at the same time, we had our own restrictions off Washington's coast, and also we're conserving stocks in the Columbia River.

We have had some good water years that have caused flows to be better than the amount in average or low-water years, and we have had the water budget.

How you separate benefits of implementation of water budget of natural flows is extremely difficult.

There is no doubt that all of those things put together are one complete package, and the Yakima enhancement project, as a total, is part of that package. The early implementation of course is one critical portion of that.

Although it's hedging the response, I really don't think it's possible to be as extremely specific about the benefits of each project as we all might like to be.

Mr. MORRISON. One last question.

As the Governor puts together a budget for this coming session of the legislature, I presume from your enthusiastic support, that there will be elements that would support the State of Washington in this package?

Ms. RINIKER. Yes, there would be.

In the conversation that you had previously about what else makes up the non-Federal shares is something that we're working on so that our budget submissions and our legislative submissions will match up to that allocation.

Mr. MORRISON. I presume when Rick Applegate mentioned requests to the Power Council those would be coordinated through your office?

Ms. RINIKER. Yes. We have already issued a letter to Kai Lee and Tom Trulove.

It is our understanding that they will be presenting that request to the rest of the Power Council.

Mr. MORRISON. Thank you very much. Your help is greatly appreciated.

Our thanks to the Governor.

Ms. RINIKER. Thank you.

Senator EVANS. The next panel is the Yakima Indian Nation, Melvin Sampson, the Tribal Council chairman; Levi George, the Fisheries Committee chairman; Bob Olney, the Lands Committee chairman.

If those three would come forward.

I promised I would do this yesterday, and so I am going to do this. I have a hat on which I think probably typifies what we're all trying to do more than just about any other visual sign. This was presented to me yesterday by the Yakima Indian Nation of the Fisheries Resource and Management. I think the logo inside typifies just about everything that we're all trying to do; it's a picture of Mount Adams with its snow cover, and the snow of course is the resource that we all need to insure that there is water supply during the course of the year, the water which is of great importance to everyone; the logo also shows two fish, and I hope that you're going to be able to change the logo to show more fish in there; and the lands alongside of course represent the fertile Yakima region in the Yakima Valley.

That represents, pretty fairly, what we're all trying to do.

With that, we welcome you here, and we'll start with Melvin Sampson, Tribal Council chairman.

STATEMENT OF MELVIN SAMPSON, TRIBAL COUNCIL CHAIRMAN, YAKIMA INDIAN NATION

Mr. SAMPSON. Thank you, Senator, Congressman Morrison.

On behalf of the Yakima Indian Nation, I am Melvin Sampson, for the record, Tribal Council chairman of the Yakima Indian Nation.

I will extend our appreciation for you to take the time and effort to have this field hearing, especially, I think, it's crucial to have them out here in the immediate vicinity where the concerns are, in reference to S. 2519.

The Yakima Indian Nation, when there is any proposed considerations for the Yakima River or any of its tributaries, we obviously have gross concerns for the various known reasons.

Today I'm accompanied by Mr. Robert Olney, to my immediate right, who is the chairman of the Water Committee for the Yakima Tribal Council; and to my far right is Mr. Levi George, who is the chairman of the Fisheries Committee for the Yakima Tribal Council.

What we would like to do today, with your acceptance, is make our presentation two-fold, as it may be.

Mr. Olney will make the presentation primarily as it pertains to the water related issues contained in S. 2519; and Mr. Levi George

then will make the presentation as it pertains to the fish related matters as in reference to S. 2519.

We would also have accompanying us, behind me here, Mr. Bob Tuck, who provides technical resources to our Fisheries Program, as well as need be, our counsel.

So with that, with your acceptance, we again appreciate this opportunity. And I would like to turn it over to Mr. Olney now to proceed with the water-related portions of our testimony.

Senator EVANS. Thank you very much.

Mr. Olney.

STATEMENT OF ROBERT OLNEY, CHAIRMAN, IRRIGATION COMMITTEE, TRIBAL COUNCIL, YAKIMA INDIAN NATION

Mr. OLNEY. Mr. Chairman and members of the committee, my name is Robert Olney. I am an elected member of the Tribal Council of the Yakima Indian Nation, and serve as chairman of the Irrigation Committee, accompanied by Tribal Council chairman, Melvin Sampson, and Levi George, chairman of the Tribal Council Fish and Wildlife Committee.

I wish to express today the feelings of my tribe concerning S. 2519, or as we call it, the nonstorage bill.

The Yakima Indian Nation is a confederation of 14 tribes and bands of Indians united as one sovereign nation under our treaty of 1855 with the United States. Prior to treaty times our people call lived on the Columbia River itself, or on one of its tributaries.

Unlike many other Indian tribes today, we continue to reside on and make continuing use of our ancestral lands. Our people continue to resort to the Yakima River and its tributaries for our fish, natural foods, medicines, and for preservation of our cultural and religious hertigage.

The Yakima Nation is also the largest user of irrigation water from the Yakima River, with approximately 154,000 acres presently under irrigation on the Yakima Reservation.

Prior to the coming of the white man, the room where we sit today, together with 11 million acres of central and eastern Washington, was under the dominion and control of the Yakima Tribe. The area ceded by the United States from the Yakima people in the treaty of 1855 stretched from the Columbia River to north of Lake Chelan, from the Cascade Crest to the Palouse. Dividing this vast area was the Yakima River, with its great fish, wildlife, and plant resources providing food, medicine and shelter to our people.

Prior to irrigation development, six species of Pacific salmon, together with steelhead, spawned in the Yakima Basin.

Our people followed these fish from near the mouth to the headwaters above the lakes, using that resources for fresh food and preserving much of it for winter use. We made use of the abundant wildlife attracted by the waters of the river, and harvested the many wild foods that grew in these valleys. Our horses flourished in the rich grasses that grew here. Our people did not lack for food or shelter thanks to the bounty of the land and rivers.

Water is sacred to our Yakima people, without it we have no fish, no wildlife, no roots, no berries, and none of our natural medicines. We would have no crops, and indeed we would have no blood.

Our forefathers believe that our Treaty would survive for as long as the Sun shines, the mountain stands, and rivers run, and our people would exist only that long as well. Without water, my people and culture would cease to exist.

When our Yakima people signed the treaty of 1855, we agreed to cede to the United States nearly 11 million acres of our land so that it could be opened for settlement and development. At the time of signing of the treaty, our Indian people had no idea of the extent of the future development coming.

The river ran full, natural and pure. Fish and wildlife flourished, and there was plenty for everyone. The treaty signers had no concept of the size of cities and the extent of industrial and urban development they faced. They did not know that dams, diversion, and pollution would diminish and befoul the river.

What my forefathers did understand was when the treaty was signed, the Yakimas retained for themselves everything not specifically granted to the United States in the treaty. This included our reservation, and full use of the entire reservation, our water in quantities adequate to fully use our reservation for all purposes, including irrigation, our rights to fish at all of our usual and accustomed places, and the right to have adequate water available for all phases of fish life. These rights, both on and off the reservation, were retained by the Yakima people. They remain ours to this day.

I would like to address the legislation primarily from the irrigation standpoint.

Mr. Levi George, chairman of the Fish and Wildlife Committee, will discuss the fish and wildlife issues in his testimony.

The Wapato irrigation project, located on our reservation, is the largest of all Yakima project diversions. It is also one of the oldest districts, having been initially constructed in 1894. At the present time, there are 149,320 acres under irrigation within the Wapato irrigation project.

The United States intended that this project fulfill its promise to our people to fully develop the agricultural nature of our reservation as promised in the treaty. Unfortunately, this has never come to pass.

Many thousands of irrigable acres owned by the tribe and individual members stand idle because they are not within the confines of the Wapato project's delivery system or capacity.

Further, we are not receiving our full share of waters guaranteed in our treaty. These are serious problems for our people.

Equally serious are Indian lands within this project, lands clearly due the benefits of the Government's trust responsibility which stands in jeopardy of inadequate supplies of water due to proration.

In a water-tight year, these lands may be cut back on supply along with other non-Indian proratable lands. This was not the right retained by us in our treaty. We retained the right to adequate waters for full development of all our lands.

Further, the condition of the Wapato project's canals and delivery system inhibit the most efficient delivery of waters to our lands. Clearly a rehabilitation of the system can provide more water for our use. S. 2519 provides the opportunity to rehabilitate our project to make it more efficient.

We appreciate the language of the bill making it clear that any water savings realized can be used within the reservation in total, not just with the physical boundaries of the Wapato project, and that they may also be used for fish and wildlife enhancement and protection.

We request that you make a legislative record to clearly reflect that these uses are the intent of this legislation and that the Department of the Interior recognize and agree that these uses are authorized. We have, in the past, had difficulties with our trustees in administration of this project. We trust that they will respect your intentions of drafting this legislation in its present form, which gives us the flexibility to use water savings in areas where we determine they are needed. We also understand that the legislation as drafted, in referring to the Leavitt Act in section 3(b), reflects your intention that the Wapato project improvements will not be chargeable to the tribe or to individual Indians on these allotments, and that the Secretary of the Interior shall respect that intent.

It is necessary to amend the preamble to the bill to reflect that the Wapato project is not a Bureau of Reclamation project, and should be treated separately.

We understand that it is the intent of this legislation that none of the actions to be taken be construed as in any way affecting the treaty reserved rights of the Yakima Indian Nation. While the bill reflects such an intent, the legislative history must also reflect that intent.

With regard to the nonreservation aspects of the bill, we have the following comments and requests.

One, that the bill and its history remain clear that any off-reservation water savings, other than for fish and wildlife, be used solely to supplement currently irrigated lands legally located within existing irrigation district boundaries as defined by records of the Bureau of Reclamation.

Second, that the mandatory language on water to be used for fish and wildlife protection be maintained.

Third, that the bill and its history clearly reflect that nothing in the bill is intended to allow for increased diversion of waters from the river or for expansion of off-reservation irrigation.

Fourth, that the bill remain clear that the water gained by the Kachess-Keechelus pipeline and the raising of Cle Elum Dam are not in any manner replacement water for flows provided by the 1980 Quackenbush decree in *KRD* v. *SVID*.

Fifth, that a provision be added making it clear that the Yakima Nation's support for Senate bill 2519 does not reflect an endorsement of the total Yakima Basin water enhancement project as presently proposed. The Yakima Nation is not, at the present, prepared to make such an endorsement.

Also, I didn't have on the written statement here, but we had some photographs which we would like to send within the next week or so regarding the latest fish kill at the Sunnyside Dam. It's always good, a picture is worth a thousand words, to show you that the continuing problems that we have had over the past years are still existing as recently as within the last few weeks.

I would like to thank you for the opportunity to share our views with you.

Senator EVANS. Thank you very much.

We will be happy to recieve, for the files, those photographs.

Mr. George.

STATEMENT OF LEVI GEORGE, CHAIRMAN, FISH AND WILDLIFE COMMITEE, TRIBAL COUNCIL, YAKIMA INDIAN NATION

Mr. GEORGE. Thank you, Senator Evans, Congressman Morrison, and concerned people.

Mr. Chairman and members of the committee, my name is Levi George. I am an elected member of the Tribal Council of the Yakima Indian Nation, and serve as chairman of its Fish and Wildlife Committee.

My fellow councilman, Robert Olney, has discussed with you the tribal concerns regarding the irrigation aspects of S. 2519.

I wish to discuss with you today the concerns of the Yakima Indian Nation as regards the fish and wildlife benefits and concerns of S. 2519.

First, I would like to take this opportunity to thank Senator Evans and Congressman Morrison for their persistent and tireless efforts in assuring the rehabilitation of passage facilities in the Yakima Basin. The Yakima Nation sincerely applauds your efforts on behalf of the fish.

Prior to the advent of irrigation diversions in the Yakima system, upwards of 500,000 adult salmon of all species came up our river. While factors other than irrigation may have had some impacts upon these runs, irrigation practices, including storage dams, diversion dams, and increased pollution spelled drastic reductions, and in some cases, extinction of important salmon species. The building of head water storage dams without fish ladders, particularly at Cle Elum, Kachess and Keechelus Dams, immediately destroyed our tremendous sockeye runs. Thermal pollution, low flows, and in many instances, total dewatering of sections of the river between Union Gap and Prosser made extinct our once large runs of summer chinook.

Tributary development and diversion coupled with low flows and inadequate protection of spawning grounds have reduced our coho salmon runs to a trickle. Fall chinook, in small numbers, have hung on in the lower stretches of the river. Spring chinook were nearly extinct in the system by 1980. Thanks to Federal court action, a more cooperative attitude, including the effort of Congress on behalf of fish, we are now enjoying a rebounding of our spring chinook runs.

This year at Prosser Dam we have counted approximately 9,000 adult spring chinooks, a figure approximately nine times what the run was in 1979. While this is marvelous news, the specter of inadequate passage and inadequate waters to continue our success still hangs over our fish runs.

This spring presents a graphic example of the problems still being experienced with anadromous fish in the Yakima Basin. Downstream bound spring chinook smolts, the result of excellent

spawning in 1984, from one of our first increased runs, encountered low flow condition in their migration to the sea.

Yakima tribal biologists were predicting a record high count of spring chinook smolts at our Prosser counting station as a result of the 1984 spawning ground surveys. Unfortunately, this record run did not appear. Tests and studies made it clear that inadequate spring flushing flows, due to low snow pack, unusually warm weather earlier in the year, and concerns over adequate storage for later irrigation, resulted in tremendous losses due to predation and other flow related causes.

Tribal scientists noted immediate surges in smolts counted passing Prosser when flows came up. Unfortunately, these flows were too little too late, and consequently the increase contemplated from the 1984 spawning run will be significantly reduced from preseason predictions. Obviously we have not solved all of the problems for anadromous fish in our basin.

From a fish and wildlife standpoint, the Yakima Indian Nation supports the concept and intent of S. 2519. S. 2519 provides a starting point from which to work toward provisions of adequate instream flows throughout the Yakima Basin. The Yakima Nation is concerned that the bill clearly reflects the intent of its drafters that the actions to be taken are only the beginning of attempts to provide adequate instream flows to protect, mitigate, and enhance our salmon runs. The Yakima Nation is further concerned that the instream flow figures contained in the Bureau of Reclamation's preliminary evaluation of these nonstorage elements are inadequate to fulfill the fishery needs in the basin.

The Yakima Nation is also concerned that in the areas where the bill requires subordination of power production at Roza and Chandler powerhouses that subordination and the amount of instream flow to be provided not be placed solely at the discretion of the Bureau of Reclamation, and that the Bureau be required to seek and implement the recommendations of tribal fisheries' scientists regarding the amount of flow needed in a given river stretch at a given point in time.

W do not feel that such a provision is unreasonable in light of the fact that the generation of power in the basin is clearly secondary to the treaty secured right to have the fishery resource protected and enhanced. We would welcome the opportunity to present the committee, for inclusion into the record, our analysis of the flows needed below Prosser and Roza Dams.

I have present with me today, Mr. Robert Tuck, who would be happy to answer questions concerning that issue.

One issue not covered is the serious low-flow problems experienced below Pacific Power and Lights' diversion at Wapato Dam on the Naches River. Very low flows occur here every year, and seriously impede passage and rearing in the Naches River. This is a non-Federal project which creates a complex situation.

We ask that your staff consider amending this legislation to authorize the provision of Federal replacement power to Pacific Power and Light during extreme low flows.

A secondary concern regarding instream flows is the water to be saved by the rehabilitation of the Sunnyside Valley Irrigation District, and the consequent use of that water for flows at Sunnyside

Dam. Once again, we have questions as to the sufficiency of those flows.

Tribal evaluation of the increase in flows to be achieved by the Sunnyside rehabilitation indicates that as little as 18 cubic feet per second would be added to the river flow at Sunnyside Dam, depending on the pattern use of those waters. Clearly further study and review of this issue is necessary.

The Yakima Nation appreciates the recognition by this committee of the need for enhanced flows below Roza, Sunnyside, and Prosser Dams. Based upon the information contained in the Bureau's preliminary evaluation, however, the Yakima Tribe is very concerned that the language of this bill clearly reflects that nothing in it affects the Yakima Nation's right to ensure additional flows from power subordination or other means in the event that flows provided are inadequate.

The Yakima Nation requests that the power subordination portions of the bill clearly reflect that nothing therein affects the treaty rights of the Yakima Indian Nation to ensure adequate flows. The Yakima Nation further requests that the bill and its history be clear that the waters saved by the Sunnyside Irrigation District's rehabilitation in no way reflect an alternation or diminishment of the Yakima Nation's treaty right to additional augmentation of flows below Sunnyside Dam.

The Yakima Nation applauds the proposal for modification of the gates at Cle Elum Dam and the Kachess Lake to Keechelus pipeline. It is our belief that those factors will provide additional flexibility in the system both for irrigation use and the continued efficiency of the flip-flop system.

Further, the Yakima Nation applauds the drafters of the bill for providing that those elements are for irrigation purposes and are in no way intended to be payback waters for waters used for the protection of fish and wildlife in the Upper Yakima Basin. There is no such payback due to irrigation for two reasons:

No. 1, the fishery right is a prior right and, therefore, waters used belonged to the fish prior to the advent of irrigation; and

No. 2, no payback is due as the use of water for flop-flop purposes has not cost irrigation interests a drop of water since their instigation in 1980. In fact, the flip-flop operation has been a marvelous success, and has been a key factor in forging cooperation among all competing water interests in the basin. The Yakima Nation and its non-Indian neighbors have used the flip-flop to prove that in fact it is possible to work together on difficult natural resource issues and produce significant results. The Yakima Nation hopes that cooperation can continue in this most difficult area.

As noted by my fellow speaker, the Yakima Nation wishes the bill remain crystal clear that any savings of water in areas off the Yakima Reservation are not used for construction of new irrigated lands, but are to be used solely for supplementation of existing development.

I thank you once again for the opportunity to speak.

On behalf of myself and the Yakima Indian Nation, I would request that the record remain open for a period of no less than 3 weeks to allow for supplementation of our testimony.

If I may give a little addition to my testimony, written testimony.

True, these are some God-given things we're talking about. The Creator gave us water.

There is a limited supply for everything. The trees have limited water. The main thing you have to understand is that the main water is for us to use, to drink, and the water is for the fish.

It is very important to the tribe, as well as for you, that you came to our country.

Just to add, I heard two speakers say this morning that their grandfathers came to this country.

Mr. Baugher is my friend, so just kind of jokingly, I think when his grandfather came to this country, my grandfather was standing by the river fishing for a fish.

Thank you.

Senator EVANS. Thank you very much, and his grandfather had been doing the same thing before.

Let me first ask Mr. Olney, you mentioned in your testimony that you request that you make the legislative record clearly reflect that these uses are the intent of the legislation and that the Department of the Interior recognize and agree that these uses are authorized. We have in the past had difficulties with our trustee in administration of this project.

We say in the bill, section 3(b), that water savings resulting from construction and operation of such facility shall be available for irrigation purposes and for the protection and enhancement of fish and wildlife within the boundaries of the Yakima Indian Reservation.

We do not say anything further about how those decisions as to which use should be preferred are made.

Are you suggesting that we add language to make that more specific, and who would you suggest make those determinations?

Mr. OLNEY. Well, the Wapato irrigation project itself, its water rights, are based upon our people's rights to the use of water for irrigation.

In 1913, at the joint congressional investigation, it was the Yakima Indians at that time who were being unjustly deprived of their fair portion of the natural flow rate of the Yakima River. At that time, the congressional investigation established 720 CFS as a minimum flow during low water to be our natural flow right. That was based upon 40 acres of each 80-acre Indian allotment, and after that, through two congressional acts, one for 250,000 acre-feet of storage, and the other for 100,000 acre-feet of storage, to make up the difference for that other 40 acres.

These are irrigation rights from the storage reservoirs that the United States purchased, because our water rights to these acreages were not fully covered in that joint congressional investigation.

Over the years, as the Wapato project has gotten their water right from the flows of the Yakima River, we have had some streams that totally start on the reservation and they go down into the Yakima River; the Toppenish, the Simco, the Satus, the Agency Creek, Matom, and some other minor tributaries that flow through the Wapato irrigation project.

We have been, over the past years, trying to develop and implement the usage of those waters which were used by our people prior to the development of the Wapato irrigation project through the Indian Service in the late 1800's. So sometimes these waters become commingled before they reach the Yakima River, and we have problems with the Government through the Wapato project as to their jurisdiction over those waters.

We, on the reservation, as well as off the reservation, are concerned that we have the adequate waters there for the fish that migrate upon the headwater within the reservation, as well as off the reservation.

We believe that we, as the tribe, the Yakima Indian Nation, have a right to administer those waters within the reservation boundaries even within the Wapato irrigation project, which is administered by the Bureau, as a trustee, that our waters are not public waters, per se, to the general public, but they are private in character and to be utilized for the benefit of our people. We don't want that to be subordinated and have a continuing problem.

We want to be able to use those waters where we feel that they are needed.

As I alluded to earlier, we're going to send you some photos of some inadequate fishery waters resulting in a fish killing on the reservation.

Senator EVANS. It might be helpful, for the record, you might propose any changed legislation in section 3(b) that would be more explicit as to how the decision would be madse on this additional water and whether it would be for fish and wildlife enhancement, or for irrigation purposes within the Wapato enhancement project.

We're not explicit in stating that in the legislation as it now exists, and it would be helpful to get your ideas on that particular point.

Mr. OLNEY. I believe we could work some wording up and forward it to you.

Senator EVANS. That would be helpful.

Also, just a comment in your statement that a provision be added making it clear that the Yakima Nation support of S. 2519 does not reflect an endorsement of the total Yakima Basin water enhancement project as presently proposed.

I think it would be premature anyhow, because none of us are at the point where we know precisely what the final step of the Yakima enhancement project ought to be. That's the next task we have after we get this put together.

Everyone should understand that this is a bill designed to do a particular thing, and it doesn't carry with it necessarily any endorsement of any other part of the project.

Mr. OLNEY. Well, we appreciate your concerns, and the concerns that we have to make the record clear as to the intent because of the past problems we have had of agreements that our people had made with various other entities, and later on we have had a dispute as to the intent of that. That's why we wanted to have the record clear here so that somebody might not misinterpret it later.

Mr. MORRISON. Just a question along the same line.

I appreciate, first of all, your support for the bill. That is important, and I think there has been cooperation as we have moved

through, so far, with various elements of the Enhancement Program.

We hope to maintain that good working relationship.

Can you do any speculation for us as to the tribe's position on, for instance, the other two important elements; one is off-reservation storage, the big issue that is in front of us—you have always been very supportive—and also maybe a quick progress report on on-reservation evaluations for storage construction, all of which we sort of look at as part of the Enhancement Program.

Is it possible to give us any clues as to where you are on reservation storage?

Mr. SAMPSON. Where we are, Congressman Morrison, in reference to those which we deem probably more major than, as you are well aware of, what the overall enhancement proposal is. We are currently in the midst, so I'm not at will to give you any distinct response as far as where we are, and nor can I, at this particular point in time, tell you when you are going to get it.

What I can tell you is that we have made, at least in my opinion, some measureable steps internally in the process of developing those and coming back and putting ourselves in a position where we will be able to make some positions, and take some positions, in reference to what your questions are.

We have advanced quite considerably over the last, say, 3 to 6 months.

Mr. MORRISON. I'm aware that you have been working on it. We look forward to sort of a report.

Mr. SAMPSON. You will be one of the first to know.

Mr. MORRISON. Thank you.

Mr. SAMPSON. That we can assure, right after Senator Evans, of course.

Mr. MORRISON. That's understandable.

Senator EVANS. Thank you very much.

It is now almost 10 minutes after 12. We will take a short break at this point for lunch, and I will make it a short break. We expect to return here at 12:30, which is just a little over 20 minutes, for panel No. 4, the first one on the contract users.

We will try to keep lunch short so that everyone has an opportunity to testify.

[Whereupon, at 12 p.m. the subcommittee recessed, to reconvene at 1 p.m. this same day.]

AFTERNOON SESSION

Senator EVANS. The hearing will come back to order.

Time seems to flow faster than people can talk, and so we are a little late in getting back into session.

Panel No. 4, James Trull, Sunnyside Valley Irrigation District; Lou Hildebrand, Wapato Indian project; Doug Rogers, Cascade Irrigation District; and Warren Dickman, Yakima-Tieton Irrigation District.

Oh, there is only three; who is missing?

Mr. TRULL. Senator, both Doug Rogers and Warren Dickman are missing.

We would like to start with an opening statement by John Pringle, who is president of the Yakima River Basin Association of Irrigation Districts.

Senator EVANS. John, go ahead.

STATEMENT OF JOHN PRINGLE, PRESIDENT, YAKIMA RIVER BASIN ASSOCIATION OF IRRIGATION DISTRICTS

Mr. PRINGLE. Good afternoon. Senator, Congressman Morrison.

My name is John Pringle, and I am president of the Yakima River Basin Association of Irrigation Districts representing over 500,000 triangle acres in the Yakima Valley.

I am here this morning to testify in support of Senate bill 2519 and reaffirm YRBAID's commitment of long-standing support to the Yakima River Basin water enhancement project.

YRBAID views this legislation, and the implementation of these elements, as only the second interim step in completing a full water enhancement project. A project of this magnitude and complexity naturally requires years of planning and detailed study before any in-field benefits can be recognized.

Implementation of this second step will again provide needed encouragement to the basin water users, as well as actual implementation of certain key elements of the enhancement plan.

The first step in field construction for the enhancement project resulted in the construction of new fish passage facilities throughout the Yakima system. This provided very needed encouragement and the hope for future completion.

YRBAID is concerned, however, that Congress, Federal agencies, State agencies, legislators, and Yakima Basin residents do not interpret this as the final solution to the valley water storage problems. This is only completion of an interim step leading toward final implementation of the entire enhancement package.

A key element, yet undetermined and critical to this legislation, regards payment for the 35 percent of the non-Federal share. The initial intent of this early implementation legislation was to make the Yakima Valley irrigation water supply whole after the 1980 Quackenbush Decree, which directed the U.S. Bureau of Reclamation to provide releases from storage for anadromous fish incubation flows.

The loss of 70,000–80,000 acre-feet for instream fish flows has always been, and continues to be, a severe injustice to the Yakima Valley irrigators. The Yakima Valley irrigators, having already paid once for storage from which these anadromous fish flows are derived, are being asked to pay for this same storage a second time.

YRBAID strongly recommends the 35 percent, and any other costs associated with making the water supply whole to irrigators, be assessed to interests other than irrigation. Irrigation interests strongly oppose having to pay for the same storage twice.

In closing, on behalf of all the irrigators in the Yakima Valley, I wish to thank you for this opportunity to provide our thoughts on this legislation.

We were supportive of the early implementation for fish facilities, we are supportive of the early implementation for fish facilities, we are supportive of the early implementation for elements

detailed in this legislation, and we remain supportive of implementation of the entire enhancement project package. However, we emphasize the previous two early implementation packages should in no way mitigate or replace approval or final implementation of the entire Yakima River Basin water enhancement project.

Thank you.

Senator EVANS. Thank you.

I guess you're going to have to tell us who wants to go next.

STATEMENT OF JAMES W. TRULL, MANAGER, SUNNYSIDE DIVISION BOARD OF CONTROL AND THE SUNNYSIDE VALLEY IRRIGATION DISTRICT

Mr. TRULL. My name is Jim Trull, Senator Evans, Congressman Morrison. I am the manager of the Sunnyside Division Board of Control and the Sunnyside Valley Irrigation District.

We serve an area in Yakima and Benton Counties, lying adjacent to the Yakima River. Water is diverted from the Yakima River at Parker, WA.

The Sunnyside Canal runs generally southeasterly from its point of diversion to Benton City, WA, delivering water to seven irrigation districts, five cities and towns and other entities.

The Sunnyside Main Canal and headworks are operated by the Sunnyside Valley Irrigation District on behalf of the board of control. There are approximately 103,000 irrigable acres in the Sunnyside division, with 84,000 acres of which being in the Sunnyside Valley Irrigation District.

The Sunnyside division is one of four entities recognized by the 1945 consent decree as having prior or senior water rights, thereby being entitled to at least a part of their respective diversions exempt from proration during water short years. The others we have listed.

My statement is intended to represent the express views of the Sunnyside division, although there are some obvious common areas of interest among the four entities.

The nonproratable water users do not need additional water supplies, yet have a significant interest in the enhancement project.

First, water rights on the Yakima project have been in various types of litigation for the past 75 years. Having the senior rights does not exempt one from the cost of continual litigation to protect those rights. A firm water supply would eliminate the continual attempt to reallocate the water rights.

Second, having senior water rights is no assurance of a firm water supply in a water short year. The control point for the Yakima River system is at the Sunnyside Dam. In water short years it is necessary for the Bureau of Reclamation to minimize flows at that point to conserve water for the entire system. Reductions in river flow caused by weather conditions and other factors can and have resulted in reduced diversions into the Sunnyside Main Canal. This leads to interruptions in service to the water users until the river flows can be adjusted by releases from the storage reservoirs.

I am pleased to support S. 2519, which authorized certain elements of the Yakima River Basin water enhancement project. This

legislation is another step toward the solution of the critical water supply problems for the Yakima Basin.

The potential for water shortages has long existed. The drought conditions that occurred in 1973, 1977, and 1979 brought that potential condition to reality. The 1980 Federal district court decision has placed another demand on the system. That decision resulted in the annual release of approximately 80,000 acre-feet of water for incubation flows for the salmon redds. The drought conditions of the magnitude of the 1970's will place an even greater burden on the Yakima River system. Even as we speak there is uncertainty as to the water supplies for this irrigation season.

As the uses of the river are many, the solution to the water supply problems is complex. It has long been an established fact that additional storage capacity is the cornerstone to any lasting and complete solution to the water supply deficiencies. That final solution has been under study for many years, and is not yet complete.

The construction of the fish passage facilities was authorized in 1984 as the first phase of the Yakima River Basin water enhancement project. That phase is now nearly complete.

S. 2519 will authorize water conservation measures benefiting both irrigation and fisheries. These elements can be constructed and/or implemented in a relatively short time, diminishing the impact of water shortages while the final solution to Yakima River Basin water enhancement project is sought.

As previously stated, additional water storage capacity has long been recognized as the cornerstone to the overall solution of the water supply problem. As the study has progressed, it has become evident that water conservation is a necessary part of the solution. That message has been conveyed by the State and Federal policymakers, as well as the public at large.

Moreover, as irrigation needs were identified, and additional sources of supply sought, water conservation became an economically viable option to provide a portion of the water supply needs.

Over the past 10 years, significant efforts throughout the Yakima Basin have been made to use water more efficiently. Within the Sunnyside division several rehabilitation and betterment projects have been undertaken, which have resulted in the replacement of badly deteriorated woodstave pipelines with new pipe. Miles of open channels have been piped, reducing evaporation and seepage losses. Other conservation measures have been, and will continue to be, investigated and implemented as they prove to be feasible.

Construction of new canal check structures and automation of the Sunnyside Main Canal is one of the elements to be authorized in this legislation.

With the existing antiquated check structures, water moves through the canal system very slowly making it difficult to respond to the demands throughout the system. Operational waste, a necessary component of any open channel delivery system, is relatively high. With the automation of the Sunnyside Main Canal, the operational waste can be reduced leaving more water in the river for instream benefits.

Passage of this legislation is important for a number of reasons.

First, this legislation signifies that there is a definite commitment to water management and water conservation as an integral part of the Yakima River Basin enhancement project.

Second, the complexity of the problems in the Yakima Basin are such that approaching the solution on a methodical, segmented basis is much easier for the public to understand.

And, third, the legislation proposed can be implemented in the short term which is extremely important to the economic well-being of the Yakima Valley.

I would just like to close with a couple of observations, Senator.

If my memory served me right, it was just about three years ago that there was a hearing, perhaps even in this building, which you chaired on the Advisability of Proceeding with Fish Passage Facilities.

A number of irrigation districts were in a quandry as to whether it was advisable to support that effort, and finally concluded that the enhancement project had to start somewhere. So we supported that effort.

Seeing you here today, Senator, and Congressman Morrison, supporting this legislation leads me to believe that we made the right decision, and I'm excited that we're moving ahead with this phase.

I know your staff members are supposed to work hard, but I think they should be commended. They have done a lot of work, on our behalf, in working with us and making sure that they understand our needs and concerns.

The study team has been working very diligently, also, in trying to put together this package, and I think they should be commended.

And finally, I would be remiss not to mention our area legislators who have done everything that we ask of them to see that the project is done to this point.

The second observation that I would like to make is that as you look into this legislation and hear some of the testimony and discuss it at length, there are some tough water rights issues to be solved.

I would just like to recall the addage that if you believe you can solve a problem, or if you believe you cannot solve a problem, in both cases, you will probably be right.

I think we have to take a positive attitude and work through these problems. They are not easy problems, if they were we would already have this project. I think it is just a matter of everybody getting together and pushing ahead.

I thank you for coming here today and for both of your interests and concerns throughout this legislation.

Senator EVANS. Thank you very much.

STATEMENT OF LOU HILDEBRAND, PROJECT ENGINEER, WAPATO IRRIGATION PROJECT

Mr. HILDEBRAND. Gentleman, I'm Lou Hildebrand, Project Engineer for the Wapato irrigation project.

The Wapato irrigation project is the largest irrigation entity in the Yakima Valley. The project, which is located entirely on the

Yakima Indian Reservation, was constructed by, and is being operated and maintained, by the U.S. Bureau of Indian Affairs.

Our 1985 budget of $3.5 million produced more than $97 million in crops.

We operate on O&M assessments from our water users, both on trust lands and deeded land.

All of the project is operated by the Bureau of Indian Affairs, who receives input from the Yakima Reservation Irrigation District, which represents the deeded land, and from the Roza Irrigation Land Committee of the Tribal Council, which represents the Yakima Indian Nation. About 50 percent of our designated land is trust land, and 43 percent is deeded land.

In the early 1900's, because of over appropriation of the Yakima River, only 147 cubic feet per second in water will be available to the Wapato Diversion Dam for the reservation lands. This was acknowledged as being notoriously insufficient for the rights of the reservation.

Congress therefore set up legislation that directed the U.S. Bureau of Reclamation to deliver a steady flow of 720 cubic feet per second at the diversion dam. At that time, this was considered sufficient to serve about half of every Indian in Wapato capable of irrigation.

The supply has since been supplemented by an additional 100,000 acre-feet of storage for the use of these (a) lands.

The way of providing water for these lands is paid for by congressional appropriation.

In order to provide water for the balance of the irrigable lands, storage water rights for 250,000 acre-feet was acquired by contract between the Bureau of Indian Affairs and the Bureau of Reclamation, and this is for (b) lands.

These (b) lands pay their proportionate share for the cost of providing this water.

The Wapato irrigation project is both a senior water right holder and a junior water right holder in the 1945 consent decree. The decree provided for about 305,000 acre-feet of water, so we're kind of inbetween on whether we should be on this panel or on the other panel of junior water rights.

This proposed legislation provided that the costs be reimbursible and returnable according to the Leavitt Act.

The Leavitt Act provides for deferral of irrigation costs and construction charges on Indian-owned land as long as the land remains in trust.

The 45 percent of the land out of trust status, what's the reimbursement for the deeded lands?

We need familiarity with the contracts with each individual deeded landowner. And if that is the case, would some non-Federal entity provide another 35 percent.

I won't go into detail of the expenditures of $10 million, because that has been done already, but I do question that a savings of 50,000 acre-feet could be made. That's a pretty big number for the amount of dollars that we're spending, and I don't know how solid that figure is.

I am going to repeat like everyone else has, this legislation is only the second step of providing the needed storage for the Wapato irrigation project and for the Yakima Valley.

With the high addition of proratable water on the reservation, this additional storage is needed to make the reservation whole.

We support this present legislation.

Senator EVANS. Thank you very much.

Let me start first with Mr. Pringle.

You mentioned in your testimony that, at the bottom of page 1, the concern of the 35 percent, and any other costs, be assessed to interests other than irrigation on the basis that the Yakima Valley irrigators, having already paid once for storage from which these anadromous fish flows are derived.

I guess there are two questions that arise from that.

First, to what degree were total costs, including the then current rates of interest, repaid for construction on the basin project?

In other words, have the current irrigators paid all the costs involved, or did the Government, or somebody else help along the way?

Mr. PRINGLE. Well, I think it has been a cost-sharing basis, I believe, and a non-interest loan.

Senator EVANS. That's not unique to the Yakima Valley. That's fairly common throughout our whole development of irrigation in the country over the last 100 years, and been on, generally, some basis like that.

Mr. TRULL. I think it's fair to say that the deal that we struck is common to the type of arrangement for projects, Federal projects, whatever the type of project was, throughout the country.

Senator EVANS. I understand that.

I was just trying to make clear, for the record, that in our payment for irrigation projects, it has been a cost sharing to what degree depends on each individual project.

Mr. TRULL. There was an agreement at the time of what the cost allocation was and what was bought for that.

Senator EVANS. I understand that.

And so you have paid, or are paying on the basis of whatever that total share is.

The other observation or question is, and maybe this is addressed to Mr. Trull or Mr. Pringle, both.

I think, Mr. Trull, you mentioned the fact that there were firm water rights, of course you have the senior and the junior water rights here, but having senior water rights is no assurance of a firm water supply in a water short year, and that there are potential disruptions for even senior water rights, but that those water rights are essentially, well, you say the nonproratable water users do not need additional water supplies yet have a significant interest in the enhancement project, and then go into the litigation to protect those rights.

I suppose if the Quackenbush concept were to be expanded and be declared to be the law, then, I guess, even the senior rights would become junior rights; wouldn't that be true?

Mr. TRULL. Obviously, we would be junior to that decision.

Presumably there would be a lot of suffering in the valley if it got to that point.

More the point I was making was even though we are senior, by right, it doesn't matter in the operation of the river. It is difficult sometimes to give us a firm water supply. As the river dips, our diversion drops, and there is a farmer out there standing with no water.

Senator EVANS. Senior rights don't produce any water.

Mr. TRULL. That's right.

So we do have an interest in the enhancement project.

Senator EVANS. I would agree with you that a legal determination of water rights that would extend the Quackenbush concept and change radically the whole nature of current water supplies in Yakima would be, not only be drastic, but terribly unsettling, to say the least, consideration. I think that is probably recognized so widely in the valley by the Yakima Nation, by irrigators, and by the State, and certainly by us, that it gives us great incentive to try to find a better answer that is the alternative to provide adequate water supplies for all of these, sometimes, competing needs, which, in each case, can provide some remarkable resource.

I'm not sure that I want to bring this up, but I guess I will plunge ahead.

We're now focused on additional storage as the way of providing additional water.

The goal is to provide water, and water to meet all of these needs. I guess it doesn't make much difference how the water is provided as long as whoever needs it get it—sort of like the electric user doesn't really care very much who supplies the electricity as long as the lights go on when you turn the switch.

I would guess that the Israelis, who are probably the world's best in the use of water under limited circumstances, ran the whole Yakima Valley in the same way that they run their irrigation in Israel, you could meet all of the current needs in the Yakima Valley with probably some fairly small fraction of the current water supply, because of their methods of providing water.

Do you think there is a significant opportunity for the fundamental concept of saying there is water conservation out there, and if anybody wants to produce it voluntarily, we'll pay for it, in much the same way the Pacific Northwest Power Council said there is electrical conservation out there, and if there is conservation, that is as good as generation, and we ought to pay for it.

Do you think there is a chance that some farmers would opt for saying I will trade a share of a water right I have for money, if the price is right, and use that money, a share of it, to improve or to find a more conservative way of meeting my needs, and maybe end up a whole lot better off, the water needs to do the crop job and at the same time money in the pocket?

Is that feasible?

Mr. TRULL. I would rather use the word, it's possible. I don't know if it's feasible. I guess that would be the question I would ask.

Just like for electrical energy, or fuel, or whatever, there are all kinds of opportunities for conservation if one is willing to pay the price, some entity, or the Federal Government is willing to pay the price.

And so I think to say that there are opportunities, most definitely there are all kinds of opportunities.

When you say what kinds of potential is it, I think you have to compare other areas in the West where irrigation is practiced, and I think you will find our use of water consistent with elsewhere because we are basically state of the art, with some exception.

Senator EVANS. And I wasn't suggesting that.

Mr. TRULL. I understand.

Senator EVANS. In fact, what I really am suggesting isn't necessarily connected with this project.

It is just the question, in fact what we have done on the power side, is that we ought to purchase conservation as long as it is cheaper and easier and better than doing it by building a new coal plant or some other resource, and you get the same and result, and get it more economically, everybody is better off.

Mr. TRULL. I agree with that.

The only other thing I would offer about that is that while we looked at some of the things that we were looking at for early implementation were a limited number of projects that could have a big impact.

I don't know, I would hazard to guess, but with our present reference point of cost per acre-feet, or whatever, I would just, as a reference point, lets say we picked up 90 percent of the available opportunties to get that last 5 or 10 percent, that could represent a lot more expense and also a lot more time.

To the individual farmer, you're talking about a very, very small increment of the total water supply, where as in some of the projects you have heard described today, those pick up 15,000, 20,000, 50,000 acre-feet, and that was the logic there.

Senator EVANS. I just want to make it very clear that under no circumstances am I suggesting we back off and do a whole lot of other things on this project. I wouldn't have introduced the bill if I could think of anything better.

I guess it is a more general question of what we ought to be looking at in the future as things get tougher and as money is harder to come by, and perhaps new water is harder to come by.

Let me make it clear that I do think there are additional conservation opportunities, and they should be explored.

[Subsequent to the hearing the subcommittee received the following letters:]

65-563 O - 87 - 4

Yakima River Basin Association of Irrigation Districts

POST OFFICE BOX 6900 Kennewick, WASHINGTON 99336-0401 TELEPHONE 586-9111

1986 JUL 25 AM 4:53

"Representing Over Half A Million Irrigated Acres"

July 16, 1986

The Honorable Daniel Evans
United States Senate
702 Hart Senate Office Building
Washington, D. C. 20510

Re: Field hearings, Yakima River Basin Water Enhancement Plan, Early Implementation Elements, July 1, 1986

Dear Senator Evans:

At the above referenced field hearings I was questioned by the Panel regarding any federal subsidies in connection with construction of the reservoir system of the Yakima Project. I apologize for being unable to immediately respond to your question. However, I provide the following data as part of the official record.

YAKIMA PROJECT COSTS & REPAYMENT

		Percent Total Proj Cost	Percent Allocated Reimb. Cost
Total Project cost as of 9/30/85	$140.5 million	--	--
Cost allocated to irrigation	131.0 mil.	93%	--
Repaid by irrigation	(123.4 mil.)	(79)	(94)
Repaid by power revenues	(7.6 mil.)	(5)	(6)
Cost allocated to power	5.2 mil.	3	--
Repaid by power	(5.2 mil.)	(3)	(100)
Total Project repayment	$136.2 million	(96)	100

Please note, 96% of all Project costs attributable to irrigation and power function are repaid to the United States by those who directly benefit, i.e.

power and irrigation interests. Costs allocated solely to irrigation, 94%, are repaid solely by irrigators, the remaining 6% paid by power revenues.

I am certain you are already aware that reservoir construction was completed with noninterest bearing dollars from the federal treasury. Special interest groups claim the noninterest bearing construction loan in and of itself is a federal subsidy. However, in comparison to the outright 6 billion dollar plus subsidy of the subway system constructed in Washington, D. C. the interest free, fully repayable reservoir loan illustrates the dedication and honor of Yakima Project farmers.

I hope this response officially addresses your question. If I or other members of Y.R.B.A.I.D. can be of assistance, please do not hesitate to contact us. I look forward to the successful implementation of this bill, and again, thank you for all your assistance.

Respectfully yours,

John Pringle

John Pringle, President

JP/hah

cc: The Honorable Sid Morrison

SUNNYSIDE VALLEY IRRIGATION DISTRICT

OPERATING AGENT OF THE BOARD OF CONTROL IN THE OPERATION AND MAINTENANCE OF THE SUNNYSIDE DIVISION OF THE YAKIMA IRRIGATION PROJECT

P O BOX 239

Sunnyside, Washington

98944

July 16, 1986

The Honorable Daniel J. Evans, Member
United States Senate
702 Hart Senate Office Building
Washington D.C. 20510

Re: Field Hearing of the Water and Power Subcommittee of the U.S. Senate Committee on Energy and Natural Resources - S2519

Dear Senator Evans:

At the Field Hearing in Yakima on July 1 the position of the Yakima Basin River Association of Irrigation Districts was expressed that the storage water ordered released by Judge Quackenbush for incubation flows for the salmon redds should be replaced as a nonreimbursable federal expenditure. I would like to follow-up on my response to your question of that position.

There were several statements made as to why the lost storage water should not be replaced. There was testimony offered that the Indian's water rights predate all non-Indian water rights. There was the statement made, although incorrect, that there has been no damage to irrigators by the release of the incubation flows. And finally there was a question of whether there were subsidies involved with the original repayment contracts for storage. None of these issues are relevant to the determination of the federal obligation to replace the storage water.

The Federal Government has an inherent responsibility to correct injustices that have happened in the past through no fault of the parties involved. Numerous examples could be cited including current corrective actions taken to restore anadromous fish runs, certain actions with the respect to the Yakima Indian Nation, and restitution to the Japanese for internment during World War II.

The instant case is one in which an agreement was reached between the United States Bureau of Reclamation and irrigation districts on the terms of repayment contracts to cover the cost of water supply. These contracts provide for interest free loans. This type of financial assistance is typical of programs offered by the Federal Government for irrigation and nonirrigation programs alike. Further, the interest subsidy was provided at a time when market interest rates were extremely low relative to the present, making the assistance less. Unfortunately the Bureau of Reclamation overestimated the storage water available for

sale which has resulted in overappropriation of project water. Thus, the irrigators have not obtained what was represented during contract negotiations. The 1980 Quackenbush decision exacerbated this overappropriation of water supplies.

The 1945 Consent Decree recognized the potential for lack of full supply of water in water short years. It makes provision for prorating water supplies in the short years - not termination of water delivery. That is a distinct difference and further evidence of the misjudgement on the part of the Bureau of Reclamation. This is justification for the Federal Government to assume responsibility to correct, in part, this overappropriation.

The fish incubation flows are estimated to be about 80,000 acre feet per year. Although the water savings from raising Cle Elum Lake and the Keechelus-Kachees pipeline will not recover 80,000 acre feet it would certainly be a good step forward. Accordingly the irrigators' position is that these two construction costs should be nonreimbursable federal expenditures.

Thank you for this opportunity to comment both at the Hearing and with this supplemental information. We are most appreciative for your leadership on this very important legislation. If you desire additional information, I will be most pleased to supply it.

Sincerely,

James W. Trull

James W. Trull
District Manager

JWT/db

cc: Larry Vinsonhaler, USBR
Glen Fiedler, DOE

Senator EVANS. Congressman Morrison.

Mr. MORRISON. Just a comment on the same subject.

I hope we can keep farm conservation separated from the issue immediately in front of us, but its something obviously to explore.

Senator EVANS. Sure.

Mr. MORRISON. Senator, I think some financial incentives or tax credits, or some other opportunity to upgrade the system, is certainly in order as it might apply to individual farm operations.

I guess I would only comment on the question that John Pringle raised on behalf of all the irrigators in the area on the cost sharing issue.

Just say that we accept that, we knew that that was going to be coming, and must very much be a part of the record.

Let me just thank the senior districts who are represented here for their support. You are in an interesting spot, and you wouldn't have to participate in this process at all, and we do appreciate your support for the bill, because I think you sense that what's good for the entire area ultimately will be important to senior water right holders, as well as junior rights.

Senator EVANS. You can say, amen, to that.

We appreciate very much your coming.

The next panel is Panel No. 5, Ron Van Gundy, Roza Irrigation District; Jim Taylor, Roza Irrigation District; Paul Chasco, Kennewick Irrigation District; and LeMoyne Henderson, Kittitas Reclamation District.

STATEMENT OF RON VAN GUNDY, MANAGER, ROZA IRRIGATION DISTRICT

Mr. VAN GUNDY. Senator Evans, Congressman Morrison, I'm Ron Van Gundy, manager of the Roza Irrigation District.

This panel represents the major irrigation districts with totally proratable rates. The Kennewick, Roza, and Kittitas are all three represented.

Before I begin my formal testimony, I would like to just take a minute to say thank you to both of you for supporting this legislation and for bringing this hearing home to this Washington so we don't all have to make that long journey.

Senator EVANS. You wouldn't want to be there today, it's 95 degrees, and the humidity is about the same.

Mr. VAN GUNDY. It feels like that here.

The Roza Irrigation District is in support of the legislation for early action of certain nonstorage elements, as a balanced cost effective package providing benefits to both fisheries and agriculture. The projects authorized by this bill are necessary and intricate parts of the overall Yakima Basin enhancement and need not stand the test of additional study or delay.

There are, of course, certain legal concerns about how the water saved by some of these project elements relate to the 1945 consent decree in Civil 21 and in State water law. Our attorneys are reviewing the bill from this aspect and will be contacting Joe Mentor with their thoughts and suggestions very soon, if they haven't already. Therefore, I will confine my remarks to the nonlegal aspects.

Both the Keechelus and Kachess pipeline and the Cle Elum 3-foot raise require an irrigation purchaser to repay the 65 percent Federal share. We believe that it would be helpful if the Bureau of Reclamation would provide the district with more information on the alternatives associated with some of the projects.

More specifically, we would like to know the options and/or Bureau intentions on the following items.

No. 1, the Keechelus/Kachess pipeline provides spin off benefits to the anadromous fishery resource, irrespective of who buys the "saved water." Will a portion of the Federal share of nonreimbursable to reflect this, and if so, to what extent?

No. 2, if either or both projects were to be purchased by an individual entity, such as ourselves, the saved water would need to be specifically identified for that entity as being separate and apart from total water supply available as defined by the 1945 consent decree. Since much of the saved water would be accomplished during the good years, to be carried over for the short supply years, can the Bureau provide us with a plan for legally accomplishing this, a formula for identifying the quantity of water that would be saved each year or allotted to the purchaser, and so they believe the present language of the bill allows for the saved water to oe separately accounted?

No. 3, if not, and the saved water must become part of total water supply available, can they provide us with a legal and workable plan for all of the irrigation districts to share in the cost equitably?

No. 4, what is the anticipated O&M cost of both the Keechelus/Kachess and Cle Elum projects, and what portion of that would be chargeable to the project purchaser?

Five, on the issue of power subordination at the Roza plant, what would be the specific power rate on the Roza for both the fixed rate and the wheeling charges? Excluding the original construction costs that are addressed in the bill, are there any other costs that are associated with past operations of the Roza plant that the Bureau would anticipate the district pay?

Six, the law allows up to a 40-year repayment schedule for the irrigation facilities. In the specific case of the Roza Reregulation, or the Keechelus/Kachess or Cle Elum projects, if the Roza were to be the purchaser, what would be the repayment schedule required by the Bureau?

Answers to the preceding questions are very important to us if we are to proceed on with the decisionmaking process.

We are presently funding annual installments of our rehabilitation and conservation program, repaying our original construction costs and confined by an extremely depressed agricultural economy. We are very dedicated to the concept of purchasing additional storage as part of the final enhancement package, and the potential magnitude of that obligation is also unkown at this time. Therefore, we must be very careful not to exceed our repayment ability before reaching that final project.

That concludes my prepared remarks, but there are a couple of other items I would like to address.

Senator, earlier on your questioned the Bureau on the benefits attached to the subordination of the Roza powerplant, and I totally

agree with the questions you brought up. I think not only is it appropriate, but I think very definitely there needs to be more proper reflection of the benefits that that subordination does create and that there is a water savings, or a reduced need for storage water created by that subordination.

Relieving us of the repayment obligation is really no benefit to the Roza since the plant generates its own repayments.

Plus we do not agree that the present mill rate are necessarily correct or that they will stand the test of a court case.

It should also be noted that the subordination was not our idea. I think that needs to be reiterated.

That concludes my remarks, but if you have any questions I would be happy to address them.

Jim Taylor, chairman of our board, is also here. He will not be making any remarks, but he is here for the benefit of your questions.

Senator EVANS. Are there others who will be making statements.

Mr. WYDENBOTH. I'm Eldon Wydenboth, and I am a cattle rancher from Ellensburg, and I am on the Kittitas Reclamation District Board.

Our manager, LeMoyne Henderson, couldn't be here today; he is sick.

We will send additional written testimony. We haven't had too much time to prepare one so far, but there are several questions.

Senator EVANS. I might, at this point, announce we had originally scheduled 2 weeks after the hearing for additional testimony. We have had, at least one request this morning that this be extended 3 weeks, and we will make it 3 weeks from today in which anyone can submit additional testimony for the record.

Mr. WYDENBOTH. One of the questions I would like to ask is on page 6, section B, where it says "The Secretary shall offer to amend existing irrigation repayment contracts."

We are in the midst of a 100-year contract with the Reclamation Bureau, and I think our last payment will be due in 2029.

Under the present contract we don't pay any interest. We have maintained our O&M and our CDR's all through the years. We wouldn't like to do anything to endanger this present repayment program.

I was just wondering as to the wording of that when it says the Secretary would amend these existing irrigation contracts.

Senator EVANS. I think that it says the Secretary shall offer to amend.

It doesn't give the Secretary——

Mr. WYDENBOTH. But if we entered into another contract, say, on the Kachess/Keechelus arm, would that automatically amend our contract, our present contract?

Senator EVANS. I guess we could offer to write a new contract, or offer to go back and amend the old contract in terms of benefits, the new benefits to be achieved.

Mr. WYDENBOTH. But we would be able to keep it in two contracts?

Senator EVANS. I believe so.

I can understand your desire to retain that contract, because I would like to borrow some money with no interest for 100 years.

Mr. WYDENBOTH. It would make a difference of about $400,000 a year to us.

One other thing I would like to ask.

We have a lot of people involved up and down the Yakima River paying for water, for irrigation, for fish, and for different projects.

One of the major recipients of the fish program is the commercial fishing industry. I was just wondering what their contribution was, costwise, to this program.

Mr. MORRISON. If you don't mind, I will take that on because I testify every year on behalf of all the Columbia River hatcheries that I happen to represent in the Columbia River Gorge.

That is about a $12 million price tag that at least is from general taxpayers, but I don't know if there is any direct contribution. There is a lot of general taxpayer money that goes in the fishery resources.

Senator EVANS. I think the general view of the fishermen, themselves, in the fishing industry is that they had a resource, which was an extraordinary resource, that if no dams had been built and no irrigation had to come along, we would still be there.

It was the interference with the water from both sides of the irrigation that caused the reduction in fishing interests. Any expenditures being made to restore that are really reparations for past damages, rather than enhancement that they should pay for. I suspect that that would be it.

Mr. WYDENBOTH. One other thing I would like to say.

We have been invovled in the Enhancement Program, and one of the things that we think has been overlooked is the Gavin Creek site.

We feel that water generated on the upper arm of the Yakima is a lot more valuable than water generated, say, at the Wymer Reservoir, or the proposed Wymer Reservoir. I think that should be investigated.

Our fish biologist has given us the report on it, and most of that area has been clear cuts to the environmental impacts and wouldn't be as great as some of the other places.

It's up high enough so that there would be a tremendous savings, possibly up to 150,000 acre-feet. It has about 200,000 acre-feet of drainage area.

It would be closer to Keechelus than Kachess, it's up in that area.

I just think it should be investigated, because I think the higher we can keep that water, more people can use it for fish or for irrigation.

Senator EVANS. That's a good point. We'll make sure that that's investigated.

Mr. WYDENBOTH. Thank you, Senator.

STATEMENT OF PAUL CHASCO, SECRETARY-MANAGER, KENNEWICK IRRIGATION DISTRICT

Mr. CHASCO. Good afternoon.

My name is Paul Chasco, and I am the secretary-manager of the Kennewick Irrigation District in Kennewick, WA.

On behalf of the board of directors and 35,000 district residents, I wish to thank you for this opportunity to testify.

As stated in our letter of June 4, 1986, the district enthusiastically supports the total enhancement project, as well as the early implementation elements. However, the element of power subordination at Chandler powerhouse has serious repercussions on the Kennewick Irrigation District.

Kennewick irrigation water and Chandler power share a common canal, referred to as the Chandler Power Canal. By subordinating power water and suspending use of the generators, the Kennewick Irrigation District Canal is subject to severe water level fluctuations resulting in damage to the irrigation district canal.

The need for flow control is necessitated by the fact that the Yakima River is not regulated from Sunnyside Dam to Prosser. Return flows and unregulated withdrawals on this reach create fluctuations in the river's flow of up to 200 cubic feet per second. The existing power generating equipment serves to regulate these fluctuations, which result in a relatively constant flow in the Kennewick Irrigation District Canal. This regulating feature will be impaired by subordination of the power generating water rights.

We have formulated three preliminary alternatives to alleviate the fluctuations, others may be possible.

One, to install an automated gate at Chandler to replace the regulating function of the power generation equipment presently served. The gate would automaticlly open and close with fluctuations caused by the river. This option would still require a minimum of approximately 1,000 cubic feet per second diverted from the river and into the Chandler Canal. We also recommend this operation include 24-hour surveillance, to ensure its safe operation, for a minimum of one full irrigation season.

The second alternative is to install automated gate equipment at the Chandler Canal inlet to maintan a constant flow into the canal. This would require a minimum diversion of 800 cubic feet per second.

And three, electrification of the pumps that deliver the Kennewick Irrigation District Canal flow which are currently water powered. Standby power should be included in this option to make its reliability comparable to the water powered units. The required minimum diversion for this option is approximately 400 cubic feet per second, and an automated gate at the inlet would be necessary to regulate the river fluctuations.

The following table sets for the ranges of our preliminary estimated capital and operating costs for these alternatives.

Alternative I, which is the automated gate at the pump station, capital costs are between $100,000 to $200,000 with operating costs of between $20,000 to $40,000 per year.

Alternative II, an automated gate at the inlet, capital costs of between $200,000 to $300,000. We do not have an estimate on the operating costs.

Alternative III, electrification of the pumps and an automated gate inlet is between $2 million and $3 million for capital costs, and $700,000 to $1 million in operating costs.

All three alternatives involve continued operation of Chandler Power Canal, of which the district funds 30 percent under Contract

14-06-W-56. We question if this 70 percent which the Government shares, and the 30 percent of the Kennewick Irrigation District ratio will remain constant if only Kennewick Irrigation District irrigation water is being transported. No increase in operation and maintenance should be incurred by Kennewick Irrigation District resulting from the power subordination element. Any new construction necessary to maintain Kennewick Irrigation District deliveries should also be a nonreimbursable cost, as should the corresponding operation and maintenance costs.

Section 5(a) directs the Secretary of the Interior to operate the Chandler powerplant in a manner that provides protection and enhancement of fish and wildlife.

Contract 14-06-W-56 between the Kennewick Irrigation District and the U.S. Bureau of Reclamation specifically places full irrigation supply as a priority over any power diversions. Senate bill 2591 places instream flow—fish and wildlife—as a priority over any other use. We recommend during bill markup language inserted recognizing full irrigation supply as top priority, then fish and wildlife, and then power subordination.

Basically our district is very concerned that, in the past, we have received, even in drought years, due to the return flows of a full water supply.

During drought years, power generation has virtually been eliminated in certain cases so that the Kennewick Irrigation District can maintain its supply of water.

We are concerned that if the interim is set at 450,000 cubic feet per second level, and a drought year arises, will the Kennewick Irrigation District still receive its full share? Again, we're also concerned in that the Kennewick Irrigation District receives no benefit whatsoever for the power subordination that we not be burdened with any of the construction costs or additional O&M costs.

In looking at the Bureau's chart, we see the last line of the Roza-Chandler subordination, and they list the cost at zero. We think the costs will be significant to maintain our constant flow. They list the Federal share of that cost as none. We feel that the Federal share should be 100 percent or come from whoever derives the benefit.

The column showing non-Federal share, where it shows none, is naturally correct. And the water added or saved, we have no comment on that issue.

Thank you very much.

Senator EVANS. First, Mr. Van Gundy, you pose a number of very good questions, and we're going to have to really look pretty hard at the answers. At least on some of those questions, and maybe all of them, it probably would help if you would, having posed the questions, give us your suggestions as to the answers, or at least from your point of view, what the appropriate answer might be.

I think, for the record, that might help us in our determination of what the answers ought to be.

Mr. GUNDY. Yes. On a couple of those items I mentioned the legal side of it being addressed by our attorneys, and that will cover some potential options on some of those questions.

[Subsequent to the hearing Mr. Van Gundy submitted the following:]

M E M O R A N D U M

TO: ROZA IRRIGATION DISTRICT BOARD OF DIRECTORS

FROM: THOMAS G. NELSON

DATE: July 15, 1986

RE: YAKIMA RIVER BASIN ENHANCEMENT PROJECT BILL (S 2519)

You have asked me to advise you whether Roza could be assured of getting the water savings which would result if it paid for the Cle Elum gate modifications and the Kachess to Keechelus pipeline. (You emphasize that the decision has not been made by Roza to do so, but that this is one option to be considered.)

In its present form, S 2519 does not allocate water savings resulting from the construction of those two features of the Enhancement Project, in contrast to the savings resulting from the other features detailed in Section 1(a) of the bill. (Roza rereg; Sunnyside automation and Wapato automation.)

An answer to your question requires review of some of the background of Yakima River water rights. At the time the United States undertook the construction of the Yakima Reclamation Project, the reliable flow of the Yakima River watershed was over-appropriated during the irrigation season. The addition of the Yakima Project, plus federal recognition of Indian water rights by act of Congress, created a complex water rights system. A more specific discussion of certain matters of background is necessary for an analysis of the question.

1. 1945 CONSENT DECREE:

The United States and Kittitas Reclamation District filed an action in federal court intended to determine the United State's obligation to deliver Yakima Project water to the defendants. The necessity for a decision on the issues framed by the complaint became moot by reason of a decision in a separate case. (Fox v. Ickes, 137 F. 2d 30.) A judgment, commonly referred to as the 1945 Consent Decree, created the concept of "total water supply available," which was defined as "that amount of water available in any year from natural flow of the Yakima River, and its tributaries, from storage in the

various Government reservoirs on the Yakima watershed and other sources, to supply the contract obligations of the United States to deliver water and to supply claimed rights to the use of water on the Yakima River ... " The federal court retained jurisdiction over matters of interpretation and administration of the decree.

2. CLE ELUM DEAD STORAGE ISSUE:

Following a dry year in 1977, the Bureau of Reclamation proposed pumping the dead storage in Lake Cle Elum as a supplemental water supply. The dead storage could not be removed from the lake by gravity because the outlet works were too high.

Roza sought an interpretation under the retained jurisdiction in the 1945 Consent Decree on the question of whether the dead storage would be part of "total water supply available" or would be available to those who agreed to pay for the facilities. The Ninth Circuit held that the water was not part of TWSA (626 F. 2d 95, 1980; Certiorari denied, 449 U.S. 1079, 1981). The basis of the decision was that the dead storage water was not available in 1945 and was not contemplated as part of TWSA.

ICKES v. FOX:

The struggles to define the nature of the water rights for the Yakima Project resulted in a decision of the U.S. Supreme Court in the case of Ickes v. Fox, (300 U.S. 82, 1937).

In addressing the question of the extent of water rights gained by landowners having contracts with the United States the Court said:

> "Appropriation was made not for the use of the government but, under the Reclamation Act, for the use of the landowners; and by the terms of the law and of the contract already referred to, the water rights became the property of the landowners, wholly distinct from the property right of the government in the irrigation works." (300 U.S. at 95).

ISRAEL v. MORTON:

One last case deserves quick mention as part of the general discussion. Sam Israel acquired property on the Columbia Basin Project, which was subject to the so-called "160

acre limitation." If a water user held land in excess of the 160 acre limitation, he could only sell the excess land at prices set by the Secretary of the Interior. The excess land provisions applicable to Israel's property, by operation of the specific statutes involved, expired after five (5) years. Congress amended the project act so as to re-impose those limitations after the five (5) years had elapsed. Israel contended this was a taking of his property, since he owned it free of excess land restrictions prior to the Congressional Act. The Ninth Circuit disagreed, saying:

> "Project water, on the other hand, would not exist but for the fact that it has been developed by the United States. It is not there for the taking (by the landowner subject to state law) but for the giving by the United States. The terms upon which it can be put to use, and the manner in which rights to continued use can be acquired, are for the United States to fix. If such rights are subject to becoming vested beyond the power of the United States to take without compensation, such vesting can occur only on terms fixed by the United States. (549 F. 2d 129 at 132).

With the above background we can now turn to the specifics of the proposed bill.

LAKE CLE ELUM:

Storage in Lake Cle Elum was restricted by the USBR after the Teton Dam failure because of certain problems with the radial gates. S 2519 authorizes modifications of the gates to permit storage in the three feet previously restricted, totalling 15,000 acre feet. The bill does not allocate the right to this water.

It seems clear that the 15,000 acre feet were previously part of TWSA as contemplated by the 1945 Consent Decree. However, it has not been physically available since the restriction and would not be available if the gates were not modified. If the modifications are accomplished with the S 3519 as now written, the language in Section 4 that the gate modifications shall "become features of the existing Yakima Project" would put the 15,000 acre feet back in TWSA. If all water users paid for the modifications this would be the proper result.

If less than all water users pay for the modifications, then those who pay should get the benefit, and the 15,000 acre feet should not become part of TWSA. This can be accomplished by amending Section 4 to read as follows:

> "The modification of existing radial gates at Cle Elum Dam and the Kachess Lake to Keechelus Lake pipeline shall become features of the existing Yakima Project, except that water made available or saved by the construction of those facilities, shall be allocated to those entities signing contracts providing for repayment of the irrigation portion of the costs of such facilities pursuant to Section 8 of this Act."

Inherent in the fact that the water is not part of TWSA is the power of the contracting entity to call for its delivery separate from its rights in TWSA.

KACHESS TO KEECHELUS:

This portion of the Enhancement Project is similar to the Cle Elum situation, at first glance. However, the pipeline will permit water to be diverted from the Kachess Lake watershed, a better source, to Keechelus Lake. If the diversion results in storage of water which would otherwise not have been storable, the gain is not part of TWSA since it would not have been available to fill water rights on the Yakima watershed.

There is a further potential for saving of water. Releases from Keechelus reduce the potential for artificially high water levels which would require post-irrigation season flows to prevent damage to anadromous fish spawning beds. This benefit may be capable of estimation on a average basis, and should be made available to the contracting party. The water saved is left in the reservoir instead of being released to maintain water levels. It arguably is not part of TWSA since it would not have been available had it been released to maintain water levels.

The allocation of the Kachess to Keechelus saved water is addressed in the suggested amendment to Section 4 under the Cle Elum gate modifications.

TRIGGER PROVISION:

Those who pay for the facilities which make more water available for irrigation than would have been available if

those facilities had not been constructed should get the benefits.

The above short discussion of the complexities of the Yakima River water rights system should make it apparent that there are no short or easy answers to the legal questions raised about the Enhancement Project.

A "trigger" provision in the Enhancement Project authorization would make it clear that the benefits go to those who pay for the facilities. A new section should be added to the bill as follows:

> Section 11: The United States District Court for the Eastern District of Washington shall have jurisdiction to hear and decide actions for declaratory judgment concerning the validity of the allocations of water made by this Act. Sections 1 and 2 of this Act shall take effect only upon entry of a final judgment of said court upholding the validity of all such allocations.

Senator EVANS. That would be very helpful.

Mr. Chasco, you mentioned, in your testimony, return flows and unregulated withdrawals.

Can you describe for me a little more what an unregulated withdrawal is?

Mr. CHASCO. The Yakima River is pretty well controlled from the head and all the way down to the Sunnyside Dam. In fact, I refer to the Sunnyside Dam as being the control point for the river.

However, once the water goes over Sunnyside Dam, the Bureau will classify the stream pretty much as free flow. They do not attempt to meet any type of target flow or minimum flow in the Prosser Dam other than the contractual 50 to 200 cubic feet per second, for fish and wildlife, which was a part of our 1954 contract.

Throughout the river there are return flows coming off the Wapato project, the Sunnyside project, the Roza project, and there are a whole host of pumpers and various small diversions on the river who take water without interaction or without contacting the Bureau. These create, along with other environmental factors, a very definite fluctuation in the river level at Prosser Dam. It is that fluctuation in our diversion that if it goes unregulated will cause severe repercussions in our canal.

We have had a history of catastrophic canal failures due to environmental factors, construction factors, material factors, and so forth.

The District has entered into a very costly 5-year program of PVC lining in certain areas. But with PVC sitting on a slope, any fluctuation in the canal could cause the entire cover material, and potentially the material, to sluff right into the bottom of the canal so we have to operate it in a very critical fashion.

Senator EVANS. Have those withdrawals from the river in the free flowing stretch, well, you said they have had no contact with the Bureau of Reclamation; are those done with some water right, or presumed water right, or are they just taking water from the river?

Mr. CHASCO. I would presume there would be a water right with the State.

Senator EVANS. Does Kennewick Irrigation District pay for water in the Chandler Canal and do they use it to prevent the fluctuation problem?

Mr. CHASCO. We pay according to all the other districts on the ratio of what's withdrawn.

We also pay for 30 percent of the operation and maintenance of the Chandler Canal, 30 percent of the pumping plant, and 100 percent of all the costs associated with the Chandler pumps.

In that respect, our question is if power is subordinated so that all the power water is flowing over the dam for instream flows, would the Kennewick Irrigation District by charged 100 percent of the operation and maintenance of the Chandler Canal. Naturally we would be against that.

Senator EVANS. What about the head required at the front of the canal to maintain that water fluctuation; do you essentially pay for that extra necessary head that's required?

Mr. CHASCO. That is a product of the power diversion.

Any water that isn't utilized by the Kennewick Irrigation District during the irrigation season is used to generate power in the Chandler Powerplant.

Senator EVANS. Sid.

Mr. MORRISON. Just one comment, Mr. Chasco.

These districts here are on, what I call, the cutting edge of this issue here. They need the assurety of water supply more than anyone else, but they also represent districts that have been paying for resources which have evaporated, if you will, in a variety of ways through the years.

We appreciate your rather constructive approach to this legislation.

Since all of you have raised issues and questions, lets trust we can all get answers to those before we proceed very far on down the road so that your support for the legislation will be well founded.

Thank you very much.

Senator EVANS. Thank you.

Panel No. 6, the contract water users, the third panel, Jerry Hilde, Selah-Moxee Irrigation District; Jeff Dunning, Ellensburg Water Co. Dale Williams, Union Gap Irrigation District.

STATEMENT OF JERRY HILDE, SELAH-MOXEE IRRIGATION DISTRICT

Mr. HILDE. Senator Evans, thank you.

My name is Jerry Hilde from the Selah-Moxee Irrigation District. I have been involved in the Yakima Project since 1975.

I'm very knowledgeable about this Valley.

I want to thank you for including, in section 10, the consolidation of these four small districts. It's a savings of some 20,000 to 22,000 acre-feet of water at a cost of approximately $10 to $12 million.

I would like to again thank you for including us in this study. Hopefully some day this can be accomplished.

Senator EVANS. Would you give me those figures again?

Mr. HILDE. The cost of construction is $10 to $12 million, and the savings is 20,000 to 22,000.

Senator EVANS. We are authorizing a feasibility study. You have, at least some idea, or some estimate, of what the end result will be.

Have there been any studies up-to-date, or is that just a ballpark estimate of what you would like?

Mr. HILDE. There was a small feasibility study done by the enhancement study team, and this is where we picked up on that.

Senator EVANS. Compared to some of those other figures over there that are for $10 million, you get more for your money than you are at least on a couple of those.

Mr. HILDE. This would be approximately 75 miles of open canal, which all four go through the residential areas, and we do have considerable problems with that especially through the Terrace Heights. We have had some drownings happen, and we would have a lot of other things that would be eliminated by this pipe pressurizing.

It would be a reduction also in the power costs to the individual farmers by that pressurizing.

Senator EVANS. Generally on that kind of thing, when you're piping an open ditch, do they bury the pipe, or is it above ground?

Mr. HILDE. No, it would all be buried.

Senator EVANS. Presumably you have a right of way than that, I suppose, under certain circumstances might be usable for other purposes?

Mr. HILDE. It would be considerable acreage that would go back into production.

If we haven't got a right of way, we'll get one.

Thank you.

Senator EVANS. Thank you.

Jeff Dunning.

STATEMENT OF JEFF DUNNING, SUPERINTENDENT, ELLENSBURG WATER CO.

Mr. DUNNING. Senator Evans, Congressman Morrison, my name is Jeff Dunning and I'm superintendent of and represent the Ellensburg Water Co.

We are a private canal company in Kittitas Valley, incorporated in 1885, and have delivered for irrigation since that time.

We also had a very short amount of time to review the bill, we went through this as thoroughly as we could, and have put together some comments.

Section 1, lines 3 and 4. We object to the words, "enhancement of fish and wildlife."

The words for the protection of fish would adequately cover the original purpose of the Yakima enhancement plan.

We are not aware of any analysis on the inclusion and protection of wildlife. We believe the inclusion of this language poses a further threat to water rights, water supply, and the financial plight of the majority of the valley's agriculturists.

We object to the language in section 2, lines 23, 24, and 25.

> The Secretary shall insure that such facilities are operated in a manner consistent with the treaty rights of Yakima Indian Nation.

Unless this act in some way quantifies the treaty water rights of the Yakimas, we see no consistency for the Secretary of the Interior to operate on it.

Section 3 (a) and (b), we found it confusing to see how the water saved by the 1945 consent judgment, and other prior established and recognized water rights.

The words, shall be available, is a very strong connotation that those would be above or separate from other water. Since that are not additional or new waters, we wonder if they remain in their present status with relationship to priority, or would they be waters junior to even that step.

In regard to sections 4, 6, and 8, and relating specifically to the Keechelus to Kachess pipeline, with the understanding that the people of Kittitas Valley that the pipeline would be a requirement parallel to the construction of the fish facilities at Easton Dam.

The language in these sections appears to imply others. In our understanding of the finishing of these two projects is no longer correct, we feel that the Easton facilities cannot be possible at this time.

We do concur with section 10 that there are elements that merit further consideration.

In section 11(c), we do not believe the Yakima Indian Nation has jurisdiction over any waters in the State of Washington outside of the reservation bounds, and wish this clarified in this record.

We also read section 11(c) to provide no relief to the Quackenbush problem.

We believe irrigated agricultural will continue to be the economic base of the Yakima Basin in spite of all the adversity now present.

As we stated 2 years ago, and have continued to state, until a quantification of the Yakima treaty right is accomplished, we feel that agreement to a plan or bill, which does not provide additional water in storage, will result in a compromise in irrigators rights. We do not find added water and storage provided by this bill.

We feel that if we support the bill without these features, we likely may never see additional water in storage, which is the only true solution we need to solve all the water problems of the Yakima Basin.

Senator EVANS. Tak you very much.

Dale Williams.

STATEMENT OF DALE WILLIAMS, PRESIDENT, UNION GAP IRRIGATION DISTRICT

Mr. WILLIAMS. Senator Evans, and Sid.

I agree with Jeff's statements.

I am the president of the Union Gap Irrigation District, and it's a small irrigation district that gets its water from just around Yakima. It goes on down below the Valley rim.

We have a canal about 32 miles long, and we irrigate about 3,200 acres. So we are small.

Our budget is low, and expenses are usually high in a canal like that.

I have been involved in this water business for 20 years—I'm not an attorney—but we spent an awful lot of money on attorney's fees for the last few years. Since 1977 our irrigation district has spent, average, $10,000 a year for attorney's fees. They've earned it, but it has been a terrific expense.

I, personally, and our irrigation district, would like to emphasize that the cart is a little bit before the horse.

I think this program you're working on is excellent, but if we don't get the water in the Yakima River Basin quantified, everybody is going to end up being disappointed with the result of what we're doing here.

To me, the number one question is to get quantified water.

I have listened to several discussions this morning. I heard the Indian Nation, I heard the Department of Ecology, the Farm Bureau representative, and to me the key problem is adjudication, either by courts or by Congress, to get this thing settled so that when you do have some water that could be available we can understand where it is going, and if we end up netting as much water as we think, at least we would know the quantities and could go from there.

The banks, your own life, it's all screwed up, if you can't promise a certain amount of water.

Thank you.

Senator EVANS. Thank you very much.

Let me start with Mr. Williams.

I would guess then, from your description of the irrigation district, that you believe that a potential merger of the four, as suggested in this proposed study, might reduce the maintenance costs and the other elements if you could combine together?

Mr. WILLIAMS. Well, this proposed merger, as I understand, I mean the feasibility study hasn't been made and so I don't know what the proposed merger would be.

One suggestion has been that the Roza Irrigation District divert the water of these four canals, at the Roza Dam, and bring it down to the Bureau of Reclamation Office, and then at that point they could pressurize it by grant.

Our canal, for example, is another 32 miles long, and it would cost an awful lot of money to pressurize our canal the whole length.

Now it's possible that they could use the upper canal for the first area to the gap, and then we're the only ones that go through the gap. We have another 20 miles, or so, below the gap.

For 3,200 acres and 32 miles, the economics are such that my budget won't stand it. Maybe somebody could show me how it could; I don't know.

Senator EVANS. Mr. Dunning, in terms of Easton, your interest, as I understand it, is to ensure that the two projects, the facilities and the pipeline, are coordinated essentially at the same time.

Mr. DUNNING. Yes, sir.

Senator EVANS. Or at least that the pipeline, if there is a priority, should be funished first, is that right?

Mr. DUNNING.Yes.

Senator EVANS. It's my understanding that the pipeline construction itself would take about a year, and I suppose a lot of this depends on how rapidly we're able to get a bill through Congress and get started.

If we're able to do that reasonably promptly, say, early in the next year, and move fast enough, we probably could get through without delaying anything. We want to keep that one in mind.

Mr. MORRISON. Senator, you also recall from this morning's session in the talk with the state folks that they would not operate, so, they in effect, from a management point of view, tend to make sure those two don't get out of relationship with each other.

Jeff, your point is well made, and reflects on a number of your employers, because they are my constituents, and I hear from them, too.

Jerry, I'm not familiar with all the territory covered by your district, but what would be the difference between your situation and Dale's? I know Union Gap very well.

Mr. HILDE. Well, we each have separate diversions out of the river. These would also be eliminated, and also eliminate the need of fish screens at a tune of some $1 million.

We take it out of the Roza. That is why I say there is a lot of "ifs" about types of structures we're going to need, whether to pressurize the whole system or not.

We're looking at possibly one or two lines servicing all four of the canals. They are all parallel.

Mr. MORRISON. That will be an interesting study, I think, for a number of these canals that I know that you have operated and struggled with, that were some of the dreams of some of the pioneers in this Valley.

Mr. WILLIAMS. Well, you have paid for operation for the past many years.

Mr. MORRISON. That's right, and we have been proud to be part of it.

Mr. HILDE. There is a lot of residential places being built down lower in the canal, we have seepage in the basements, and stuff like this, and most people would enjoy seeing this done.

I believe, with my preliminary figures, that it would mean a reduction on O & M, too, for the district.

Mr. MORRISON. I would pose, in the case of the Union Gap, that rather than follow the trail for the full 32 miles that they might just feed down from up above into those same surface areas; is that a possibility?

Mr. WILLIAMS. I think it would be.

Mr. MORRISON. That's why the study is in the bill, and we appreciate that.

Senator EVANS. Thank you very much.

Panel No. 7, Mary Burke, National Cattleman's Association; Ann George, Washington Cattleman's Association; Mike Moore, from Ellensburg, WA; and John Poulsen, from Yakima, WA.

Thank you for coming in and for your patience.

We'll start out with Mary Burke.

STATEMENT OF MARY BURKE, CHAIRMAN, SUBCOMMITTEE FOR WATER RIGHTS AND RESOURCES, NATIONAL CATTLEMEN'S ASSOCIATION

Ms. BURKE. The National Cattleman's Association appreciates the opportunity to testify on S. 2519.

My name is Mary Burke, chairman of the NCA Subcommittee on Water Rights and Resources on whose behalf I am presenting these comments.

I want to thank you, Senator, for extending the comment period.

Although you see these comments on my personal stationery, they will probably arrive at your office on our NCA stationery.

The time is short, and we appreciate the time. I will try to abbreviate some of these comments and present additional testimony later.

We have three general comments.

One, S. 2519 gave Congress the opportunity to quantify reserved water rights, and we are disappointed you have avoided that issue.

Two, the language does not adequately protect and recognize existing water rights, and adds confusion.

Three, the costs are not borne by the beneficiaries.

Specifically, in section 1, we find the first sentence extremely confusing. The word enhancement is unnecessary, the prepositional phrases can apply to one noun or several, and the primary responsibility of the Bureau of Reclamation to deliver irrigation water seems to be legislatively lost.

We would prefer that this section read:

The Secretary of Interior is authorized to design, construct, operate and maintain pursuant to Federal Reclamation Law and Washington State Water Laws.

We feel that the Pacific Northwest Electric Power Planning and Conservation Act has only planning authority, and we object to giving it regulatory power, which we think is in the language as it exists.

We believe the Bureau of Reclamation should reaffirm its primary responsibility of delivering irrigation water in reference to the operation of fish passage facilities. We would suggest the deletion of the term wildlife in this act, as there are no facilities proposed to this purpose, and we feel it complicates the issue.

In order to correct the grammatical awkwardness of the first sentence, we would suggest it read, "that (a) for purposes of protection of irrigation, fish life, and system improvement, the Secretary," and delete Northwest Power Planning Council, and substitute Washington State Water Law.

The term water conservation is not an accurate description of the projects proposed, and there are presently so many problems with the loss of water rights caused by the 1985 farm bill using the word "conservation", we find it a confusing and unacceptable term.

The first sentence in section 2 should either be deleted until storage is built or state plainly that no waters from any existing rights will ever be used for fish passage facilities.

Why does the word valid appear at all, and only before contract rights of irrigation users? This can only be viewed as a bias.

In the last sentence, we suggest the inclusion of the words territorial rights, recognizing those rights vested during the various Homestead Acts. This is becoming particularly important since these rights can be threatened by the increasing fish plantings in both the main stem and the tributaries.

We felt that this was a related issue, but separate. We may have some comments on that later.

We found sections 3 and 4 very confusing.

In section 3, Roza (a), and (b) Wapato, the waters, "shall be available." Does this mean these waters will supercede the 1945 decree and become nonproratable? Where will they be stored?

The waters in (c) Sunnyside shall be allocated.

The waters in section 4, Cle Elum Dam and the Lakes pipeline, "shall become features of the existing Yakima project."

It has been the understanding of the people of Kittitas County that the Lakes pipeline was for the purpose of making the fish passage facilities at Lake Easton possible at this time. This section does not provide that the cost be borne by fisheries interests.

The NCA strongly opposes confusion of water rights allocations as appears in this section. Our membership has many of the oldest rights in the Nation, as well as being involved in new water devel-

opment, and we urge precise definitions of all rights and responsibilities.

I agree with you, Congressman Morrison, that these sections do define who benefits from these waters.

We also oppose land and water rights owners being burdened with costs accruing to other beneficiaries. If rights and costs are spelled out now, we hope we would eliminate legal problems later.

Section 7 and 8 also indicate funding requirements from irrigators.

We feel, as other people have, it also does not address the return of Quackenbush flows, which are in fact the property of existing water rights holders used now instream.

Section 9 should state specifically that only this section and not the entire act gives priority to fish.

We would ask that these sections be explicit in funding requirements and that only new waters, additional to Bureau delivery contracts, be subject to irrigation repayment. This bill, we feel, would require that irrigators pay twice for the same delivery. The bill is also silent about the necessity of amending irrigation contracts as required by the 1982 Reclamation Reform Act.

It was my understanding, when I testified on that, that it said there would be no exemptions unless they were specific to legislation. But I might be wrong.

Section 10, unless you do plan to quantify Federal reserved rights, or build storage, and alleviate the need for an adjudication, we question the wisdom of including ground water at this time. I understand that is only a study.

We have no problem with this as a sensible practical project, but the inclusion of ground waters into a surface water issue compounds our legal problem.

The last, section 11, is improved over some proposals, but we do not understand what jurisdiction the Yakima Indian Nation has over any waters or stream or groundwater outside the reservation boundaries.

Please, could you clarify that, or delete that?

In conclusion, we must oppose the bill as written. I hope that we can make that plain that we do not oppose the concept of the bill, we only oppose the language it contains at this time.

We are disappointed that it was used as an opportunity to resolve and clarify problems. We feel that it is further complicating and confusing some of these issues, particularly on whose waters are allocated to whom, and who pays.

We feel, strictly in the Northwest, on the irrigation and anadromous fish issues in Oregon, Idaho, and Montana, that this is regretful at present.

We thank you very much for this opportunity to testify. Let me again thank you, Senator, for extending that comment period.

[The prepared statement of Ms. Burke and a subsequent submittal for the record follows:]

NATIONAL CATTLEMEN'S ASSOCIATION
5420 South Quebec Street • P.O. Box 3469 • Englewood, Colorado 80155 • (303) 694-0305

July 9, 1986

Honorable Senator Daniel J. Evans
702 Hart Building
Washington, D. C. 20510

Dear Senator Evans:

The National Cattlemen's Association appreciates the opportunity to testify on S. 2519. My name is Mary Burke, Chairman of the NCA Subcommittee on Water Rights and Resources on whose behalf I am presenting these comments. We have three general comments:

1. S. 2519 gave congress the opportunity to quantify reserved water rights and we are disappointed you have avoided that issue.

2. The language does not adequately protect and recognize existing water rights and adds confusion.

3. The costs are not borne by the beneficiaries.

Specifically, in Sec. 1, we find the first sentence extremely confusing. The word "enhancement" is unnecessary, the prepositional phrases can apply to one noun or several, and the primary responsibility of the bureau of reclamation to deliver irrigation water seems to be legislatively lost. We would prefer that this section read "the Secretary of Interior is authorized to design, construct, operate and maintain pursuant to Federal Reclamation Law and Washington State Water Laws". People of the Pacific Northwest have been repeatedly assured that the Pacific Northwest Electric Power Planning and Conservation Act (94 Stat. 2697) has only planning authority and we object to giving it regulatory power. We believe the Bureau of Reclamation should reaffirm its primary responsibility of delivering irrigation water in references to the operation of fish passage facilities. We would suggest the deletion of the term "wildlife" in this act as there are no facilities proposed to this purpose and it further complicates the management of waters by the bureau. In order to correct the grammatical awkwardness of the first sentence we would suggest it read "that (a) for purposes of protection of irrigation, fish life, and system improvements, the secretary" delete "NWEPPCA" and substitute "Washington State Water Law". The term "water conservation" is not an accurate description of the projects proposed and there are presently so many problems with the loss of water rights caused by the 1985 Farm Bill using the "conservation" we find it a confusing and unacceptable term.

In Sec. 2 the first sentence should either be deleted until storage is built or state plainly that no waters from any existing rights will ever be used for fish passage facilities. Why does the word "valid" appear at all and only before "contract rights of irrigation users"? This can only be viewed as a bias. In the last sentence we would suggest the inclusion of the words "Territorial Rights", recognizing those rights vested during the various homestead acts. This is becoming particularly important since these rights can be threatened by the increasing fish plantings in both the mainstream and the tributaries.

We found Sec. 3 and 4 very confusing. In Sec. 3 Rosa (a) and (b) Wapato, the waters "shall be available". Does this mean these waters will supercede the 1945 decree and become "non-profitable"? Where will they be stored? The waters in (c) Sunnyside "shall be allocated". The waters in Sec. 4, Cle Elum Dam and the Lakes Pipeline, "shall become features of the existing Yakima Project". It has been the understanding of the people of Kittitas County that the Lakes Pipeline was for the purpose of making the fish passage facilities at Lake Eaton possible. This section does not provide that the cost be borne by fisheries interests. The NCA strongly opposes confusion of water rights allocations as appears in this section. Our membership has many of the oldest rights in this nation, as well as new water development, and we urge precise definitions of all rights and responsibilities. We also oppose land and water rights owners being burdened with costs accruing to other beneficiaries. If rights and costs are spelled out now we eliminate legal problems later.

Sec. 7 and 8 also indicated funding requirements from irrigators. We can find no additional water available through this bill. It also does not address the return of "Quakanbush Flows" which are in fact the property of existing water rights holders used now instream.

Sec. 9 should state specifically that only this section and not the entire act gives priority to fish.

We would ask that these sections be explicit in funding requirements and that only new waters, additional to bureau delivery contracts, be subject to irrigation repayment; this bill would require that irrigators pay twice for the same delivery. The bill is also silent about the necessity of amending irrigation contracts as required by the 1982 Reclamation Reform act.

Sec. 10, unless you do plan to quantify federal reserved rights or build storage and alleviate the need for an adjudication, we question the wisdom of including "ground water" (3) at this time. We have no problem with this as a sensible practical project, but the inclusion of ground waters into a surface water issue compounds our legal problems.

Honorable Senator Evans
July 9, 1986
Page three

The last Sec. 11, is improved over some proposals but we do not understand what jurisdiction the Yakima Indian Nation has over any waters or streams or groundwater outside the reservation boundaries. Please clarify or delete this.

In conclusion, we must oppose the bill as written but are disappointed that it was not used as an opportunity to resolve and clarify problems. We feel it is further confusing and complicating the issues in this basin and would be a most regrettable precedent for other states, particularly as irrigation and andromous fish issues are addressed in Oregon, Idaho, and Montana.

Thank you very much for this opportunity to testify.

Sincerely,

Mary Burke

Mary Burke, Chairman
NCA Water Rights Subcommittee

MB:lc

cc: Senator Slade Gorton
Congressman Sid Morrison

II

99TH CONGRESS
2D SESSION

S. 2519

To authorize certain elements of the Yakima River Basin Water Enhancement Project, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 5 (legislative day, JUNE 2), 1986

Mr. EVANS (for himself and Mr. GORTON) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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A BILL

To authorize certain elements of the Yakima River Basin Water Enhancement Project, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, see protection applies only to fish & wildlife?

That (a) for purposes of protection and enhancement of fish and wildlife, irrigation, and water (resources conservation), the Secretary of the Interior (hereafter, the Secretary) acting pursuant to Federal reclamation law (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof and supplementary thereto) and consistent with the Pacific Northwest Electric Power Planning and Conservation Act (94 Stat. 2697) is authorized

to design, construct, operate and maintain the following facilities:

(1) modification of existing radial gates at Cle Elum Dam; a Kachess Lake to Keechelus Lake pipeline; a reregulating reservoir to increase water-use efficiency of the Roza Division; facilities to automate and otherwise improve canal operations of the Sunnyside Division; and

(2) facilities to automate and otherwise improve canal operations of the Wapato Indian Project.

(b) The Secretary is authorized to accept funds from any entity, public or private, to design, construct, operate, and maintain facilities authorized by this Act.

SEC. 2. The facilities authorized by this Act and fish passage facilities authorized by the Acts of August 17, 1984 (98 Stat. 1933) and August 22, 1984 (98 Stat. 1369) shall be considered features of the Yakima Enhancement Project (hereafter, Yakima Enhancement Project), if such project is authorized, and their operation and maintenance shall be integrated and coordinated with other features of the existing Yakima Project. The Secretary, as he or she deems appropriate, shall enter into agreements to provide for the operation and maintenance of such facilities. The Secretary shall insure that such facilities are operated in a manner consistent with the treaty rights of Yakima Indian Nation, Federal reclama-

tion law, and water rights recognized pursuant to State law, including the valid contract rights of irrigation users.

SEC. 3. (a) The Roza reregulating reservoir shall become a feature of the Roza Division. Water savings resulting from construction and operation of the Roza reregulating reservoir shall be available for use as supplemental irrigation water for currently developed lands within the Roza Division.

(b) The facilities to automate and otherwise improve canal operations of the Wapato Indian Project shall become features of the Wapato Indian Project. Water savings resulting from construction and operation of such facilities shall be available for irrigation purposes and for the protection and enhancement of fish and wildlife within the boundaries of the Yakima Indian Reservation. Design, construction, operation and maintenance costs related to such facilities shall be reimbursable and returnable according to the provisions of the Leavitt Act (Act of July 1, 1932 (47 Stat. 564)).

(c) The facilities to automate and otherwise improve canal operations of the Sunnyside Division shall become features of the Sunnyside Division. Water savings resulting from construction and operation of such facilities shall be allocated to the protection and enhancement of fish and wildlife.

SEC. 4. The modification of existing radial gates at Cle Elum Dam and the Kachess Lake to Keechelus Lake pipe-

line shall become features of the existing Yakima Project. The Secretary shall operate and maintain such facilities in accordance with the purposes of this Act.

SEC. 5. (a) The Secretary shall operate and maintain the existing Federal Chandler and Roza powerplants in a manner that provides priority for protection and enhancement of fish and wildlife.

(b) The Administrator of the Bonneville Power Administration (hereafter, the Administrator) shall make available power and energy from the Federal Columbia River Power System to the Secretary to meet contractual obligations entered into by the Secretary for the delivery of power and energy from the Chandler and Roza powerplants.

(c) Except as otherwise provided by this section, the Secretary shall offer to amend, without imposing any other requirement as a condition to such amendment, all existing contracts for the sale of power and energy from the Chandler and Roza powerplants to relieve any outstanding obligations for the repayment of construction costs for such powerplants allocated to irrigation.

SEC. 6. There is hereby authorized to be appropriated to the Secretary of the Interior for planning, design and construction of elements of the Yakima Enhancement Project authorized pursuant to this Act, $30,000,000 (January 1986 prices), plus or minus such amounts as may be justified by

reason of ordinary fluctuations of construction costs indexes applicable to the type of construction involved herein. There are also authorized to be appropriated to the Secretary of the Interior such additional sums as may be required for the operation and maintenance of the three vertical feet enlargement of Cle Elum Lake and the Kachees Lake to Kechelus Lake pipeline, and that portion of the operation and maintenance cost of other facilities authorized by this Act determined by the Secretary to be a Federal responsibility, pursuant to the agreements specified in Section 2 of this Act.

SEC. 7. The construction of facilities authorized by section 1(a)(1) of this Act shall be initiated only after non-Federal interests have entered into binding agreements with the Secretary to fund 35 per centum of the total construction cost of such facilities.

SEC. 8. (a) Design, construction, operation and maintenance costs of facilities authorized by this Act allocated to fish and wildlife shall be reimbursable and returnable according to the provisions of the Federal Water Project Reclamation Act (79 Stat. 213), as amended: *Provided*, That design, construction, operation and maintenance costs related to anadromous fish shall be nonreimbursable and nonreturnable.

(b) Design, construction, operation and maintenance costs of facilities authorized by this Act allocated to irrigation and which are determined by the Secretary to be an irriga-

tion obligation shall be reimbursable and returnable according to the provisions of section 9(d) of the Reclamation Project Act of 1939 (53 Stat. 1187). The Secretary shall offer to amend existing irrigation repayment contracts, without imposing any other requirement as a condition to such amendment, to provide for repayment of the irrigation construction costs of facilities authorized by this Act over a period of not more than 40 years exclusive of any development period authorized by law.

SEC. 9. If the State of Washington, the Yakima Indian Nation, or any other entity, public or private, prior to an authorization or the providing of an appropriation of funds to the Secretary to construct the Yakima Enhancement Project, shares in the costs of or constructs any physical element of that project, the costs incurred by the State, the Yakima Indian Nation, or any other entity in the construction of such elements shall be credited to the total amount of any costs to be borne by the State, the Yakima Indian Nation, or any other entity as contributions toward payment of the cost of the Yakima Enhancement Project; except that no such credit shall be given for any element constructed by the State, the Yakima Indian Nation, or any other entity unless the element has been approved by the Secretary of the Interior prior to its construction. The Secretary shall grant such approval, when requested by the State or other entity, if the Secretary

65-563 O - 87 - 5

determines that the element proposed for construction would be an integral part of the Yakima Enhancement Project.

SEC. 10. (a) The Secretary is authorized and directed to conduct a feasibility study of the following potential elements of the Yakima Enhancement Project:

(1) Kittitas Valley irrigation system improvements;

(2) consolidation of the Selah-Moxee Irrigation District, Union Gap Irrigation District, Moxee Ditch Company, and Hubbard Ditch Company diversions from the Yakima River for delivery from the Roza Canal; and

(3) development of groundwater resources within the Roza Division for a supplemental irrigation water supply.

(b) There are hereby authorized to be appropriated to the Secretary for such feasibility study $500,000 (January 1986 prices): *Provided,* That the Secretary is authorized to accept funds from any entity, public or private, to assist in the financing of such feasibility study.

SEC. 11. Nothing herein shall be construed to—

(a) affect or modify any treaty or other right of the Yakima Indian Nation;

(b) authorize the appropriation or use of water by any Federal, State, or local agency, the Yakima Indian Nation, or any other entity or individual;

(c) affect the rights or jurisdictions of the United States, the States, the Yakima Indian Nation, or other entities over waters of any river or stream or over any groundwater resource;

(d) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States;

(e) alter, establish, or affect the respective rights of States, the United States, the Yakima Indian Nation, or any person with respect to any water or water-related right; or

(f) alter, diminish, or abridge the rights and obligations of any Federal, State, or local agency, the Yakima Indian Nation, or other entity, public or private.

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NATIONAL CATTLEMEN'S ASSOCIATION
1301 Pennsylvania Avenue, N.W. • Suite 300 • Washington, D.C. 20004 • (202) 347-0228

National Headquarters
5420 S. Quebec St. • P.O. Box 3469 • Englewood, CO 80155 • (303) 694-0305

July 21, 1986

Honorable Senator Daniel J. Evans
702 Hart Building
Washington, D.C. 20510

Dear Senator Evans:

Thank you for this extended time to comment on behalf of the National Cattlemen's Association on S.2519. Because of the time constraints and previous commitments the four states affected by the Northwest Power Planning Act have not been able to meet together, but you will shortly be receiving comments from the individual cattlemen's associations in Washington, Oregon, Idaho, and Montana.

In addition to our previous testimony may I submit the following comments:

1. Could you review the Agreement in Principal concerning the Colorado Ute Indian Water Rights Settlement and binding agreements for the Animas-LaPlata Project Cost Sharing dated June 27, 1986 to ascertain whether some of these elements, including quantification and settlement of Indian water claims would be possible in the Yakima Basin? Both the NCA and the four states involved would be pleased to discuss this with you.

2. It was our understanding you would redraft the first section so that it would be more easily understood. We would very much appreciate seeing a new draft and being able to comment. While we understand you supported the inclusion of the Northwest Power Planning Act we remain very concerned over the legal complications of this language relative to Washington State Water Law.

3. As Mr. Moeur and Mr. Poulsen related to you, persons are being arrested, using state law to foster the protection of fish over agriculture because of the Yakima enhancement and Northwest Power Planning Act activities, and we would strongly urge that a clause be included in this act that prevents this, and that you seek concurrence from the states of Washington, Oregon, Idaho, and Montana and the recognition of both territorial and state water rights.

4. We remain concerned that under this act neither the allocation of waters, nor the costs, nor the beneficiaries are properly spelled out.

Again, we thank you for holding the hearing in Yakima and trust these comments will be useful to you. Thank you.

Most sincerely,

Mary Burke

Mary Burke, Chairman
NCA Subcommittee for
Water Rights & Resources

MB/tk

Attachment

cc: Senator Slade Gorton
Representative Sid Morrison
Bob Skinner
Dick Coon
Jim Little
Jack Eidel
Jimmy Wilson

Senator EVANS. Thank you.
Ann George, Washington Cattleman's Association.

STATEMENT OF ANN GEORGE, ASSISTANT ADMINISTRATOR, WASHINGTON CATTLEMAN'S ASSOCIATION, INC.

Ms. GEORGE. Thank you Senator.

I am Ann George, assistant administrator of the Washington Cattleman's Association from Ellensburg.

Our statewide organization represents nearly 3,000 landowners, with about 500 of our members farming and ranching right here in the Yakima Basin area.

The Washington Cattleman's Association is pleased to see progress being made in the authorization of elements of the Yakima enhancement project, which will begin to solve our serious overappropriation problems. One drawback in authorizing the non-storage elements prior to storage elements will be the potential for loss of momentum from support groups, once partial solutions are attained. We must all continue to work toward construction of new storage elements at the earliest possible date.

Our greatest concern with S. 2519 lies in the project cost, and division of those costs. We feel the legislation should outline the total estimated costs of each element, and the division of financial responsibility between the beneficiaries.

We feel the total cost of the package is unclear. S. 2519 uses a figure of $30 million, however, we don't know if this is the total project cost, or the 65 percent to be credited to Federal interests. In the Congressional Register, the total cost is $40 million, 65 percent of which would be $26 million, not $30 million.

An article in the June 27 Yakima Herald newspaper indicates that the Federal share will be $29.7 million, with, "other sources," putting up $10.2 million. However, this is only 26 percent of the total, not 35 percent. Obviously some clarification is needed here.

I heard earlier the Bureau's comment on their representative stating that the information would be available in August. I hope that at that time it does become a part of the legislation so that there is no question of what is enacted, who is responsible for what, and at what price. I know that this will be a major factor in the ability of many entities to support the legislation, or not.

Also, what is the definition of Federal interests and non-Federal interests? Although we all think we know what these are, I feel it should appear in the bill as a definition so that there is no question down the road.

What is the allocation of the 35 percent between non-Federal interests on each project?

We, too, are concerned about section 8(b), will amendment of existing irrigation repayment contracts cause them to be subject to the 1982 Reclamation Reform Act repayment section?

Although Washington agriculture may not be in quite as bad of financial shape as the Midwest, there are many, many farmers in this basin who are in serious condition.

In researching this, I found that in Kittitas and Yakima Counties alone, there are 681 farm loans outstanding with the Farmers Home Administration, which is often referred to as the lender of

the last resort. Any added costs through irrigation repayment contracts could be the final blow that puts many more of these out of business.

There are four other sections of the bill we wish to address.

First of all, section 1, lines 3 and 4, should be rewritten to clarify the fact that protection and enhancement applies equally to irrigation and to fish and wildlife.

Currently it sounds like protection and enhancement applies only to fish and wildlife.

Further, we feel that water conservation should be changed to water resources, or some other description that more closely fits the intent of the Reclamation Act.

Second, in section 2, page 3, line 2, the word valid should be deleted. This infers that invalid contract rights exist.

Third, we are concerned that the 3-foot vertical enlargement of Cle Elum Lake has been omitted in all but section 6, page 5, line 5. We request that this element be reinstated, as this could provide the water for fish protection required under the Quackenbush order, allowing the storage waters currently being used for those purposes to be returned to the irrigators who own them. The bill provides the opportunity to specifically return these flows to the interests who built the existing storage. That has not been done yet, at this point.

Fourth, section 11(c) should include a reference to persons, as well as entities, similar to the language in section 11(e).

And last, we also thank you for the extension of the commentaries, which I had also planned to ask for.

We're glad to see progress, but not at the expense of those entities in the basin who have not yet had an opportunity to see the legislation, much less analyze and comment. We will take this additional week to try to find that many more people and get comments to you. We thank you for that.

Our executive committee would not have even had a chance to meet before the 2-week comment period was up, and they meet every month.

We thank you, Senator Evans, for coming to the State of Washington for this field hearing, and also appreciate your having Congressman Morrison sit in on this hearing to share in the comments.

Senator EVANS. Thank you very much.

Mike Moore.

STATEMENT OF MIKE MOORE

Mr. MOORE. Thank you, Senator Evans.

I'm Mike Moore, a Kittitas Valley landowner.

I farm under the Kittitas Reclamation District and the Cascade project, and also own land near the Jolsen private ditch, which has about five users and Spring Creek diversions, which has three users, all of which take water directly from the main stream of the Yakima.

In this bill, I see no direct benefit for the Kittitas Valley irrigators.

I understand that what Representative Morrison said, this is just another intermediate step. However, I feel that we have enough of this with the fish and the fish streams and ladders now in place.

Let's make more storage water now, that is our only hope, no additional fish ladders or water for fish at this time.

The money saved by no additional building would go into the system for future storage use.

We're presently releasing irrigation water for fish, and I'm concerned when this passage is completed no additional storage will be provided and more appropriation water will be appropriated by either the courts or other means.

I say let the fish get a little thirsty along with the rest of us.

The Keechelus/Kachess pipeline is a good project, and it's cost effective.

We would not have had the possibility without Representative Morrison's help, and I wish to thank you personally at this time.

However, I feel that this water for the pipeline should go for irrigation and not for the fish.

This is the only chance that the Kittitas Reclamation District has for additional water. We want no additional fish passages or propogation above the Easton Dam. This would just add additional burdens on the irrigation waters once fish are above the Easton Dam.

Sid has also said that he has been working on this storage for 30 years. I didn't realize he was that old, but I think without his help and support we're going to have enough further delays that could cause us to be at least 30 years from now.

He also said that we're currently funding about $12 million for fish rearing purposes at this time on the Columbia project.

What I would like to see in the short money supply that we have now, I would like you to really consider a salmon hatchery below the Roza Dam where there is always adequate water and flow. It could be in conjunction with the natural spawning in the upper reaches of the river, also. The Roza project would not require the release of irrigation storage water above there to sustain this natural spawning.

This would be more cost effective, and the project would have the backing of many irrigators.

This would help Representative Morrison's question about return smolts. We would have the exact count of release. We would be able to assure return smolts for the salt-water fisheries.

I do support your endeavors for additional irrigation water.

I thank you for giving me this time to testify.

We certainly would like to have the fish, but we would not like to have it at the loss of the farmer and the rancher.

Thank you.

Senator EVANS. Thank you very much.

Mr. Poulsen.

STATEMENT OF JOHN POULSEN

Mr. POULSEN. I'm John Poulsen, and I excavate for the farmers. I'm not a farmer, but I'm here kind of on behalf of a lot of farmers who are out busy putting up hay.

Actually they could have found a better person to speak than me, but I was about the only loafer around.

They sent me down here to just kind of see what it amounts to here.

I just want to ask how does it benefit Kittitas Valley?

Senator EVANS. We're listening, now you are putting us on the witness stand. I guess that's a pretty good thing to do.

It seems to me that there have been many references today to water rights and adjudication of water rights and senior water rights and junior water rights. I think everybody is familiar with the fact that there are also, at least preliminary court decisions, and always the potential of further court decisions that might suggest that the water rights include one that's unwritten and unsigned, and that is the water rights for the fish that were there originally. Of course that could have a detrimental impact on anybody else, and push everybody else down the line in terms of their current water rights.

That isn't any way to resolve the water problems we already have in the Yakima Basin. It seems to me that the only way to resolve that is not to fight over who has the senior water rights, but to try and eventually build toward fish and water for everybody so we have stability and have two very important natural resources, both fluorishing in the same basin, one, fish, and one, agriculture.

I think when you really get down to it, fish, and fish resources, and different kind of resources, different kind of agriculture, they are living, just like a plant, and they are harvested, and in every respect, and need the water like the plants do.

We try to come up with a proposal that ultimately will lead us toward fish and water for everything so we're not arguing about who has priorities and who may end up short.

Mr. POULSEN. There is one thing I would like to say.

What is enhancement for fish, and what is enhancement for agriculture.

The fish people are probably good and happy, the farmer is probably mad. One way to tell is if they went ahead and closed their lands, they went ahead and closed their lands to hunting.

The farmers probably should go to more meetings, but they miss them, and all of a sudden they don't feel a part of it. They just get reactionary about the thing. But they are still a big important block that you have to come and deal with.

It seems like when we get these meetings, why, everything looks like it is going to work. You get out in the field, and it doesn't work a damn.

We just got through with the hydraulics business. It isn't an enhancement, but it is related.

When there is talk about something, that's fine, let's get out in the field. Hell, it just falls apart.

The farmers know the problem, they are out in the field, but you got all these bureaus and all the politicians, and all that there. They are worlds apart in thinking.

When you get to putting the thing in practice, a lot of the time it doesn't work.

I guess that's probably all.

Well, one thing I do think I would like to say, and that is with the hydraulics, and this both, they let the farmer take the back seat.

I think the farmer should be on equal footing with the fisheries, and the farmers should be half and half with the ecologists.

That's about it.

Senator EVANS. Thank you very much.

The trouble is that both sides think they have the short end, and that is one of the problems we have before us.

Mr. POULSEN. They will probably continue that way for quite awhile.

Senator EVANS. Let me just comment on, I think, the part of the testimony of Ms. George.

I think there have been some different preliminary estimates of costs, and I think these figures now represent the best figures available, in terms of the cost, and the non-Federal share is $10 million and total costs of $40 million, from which you have to subtract out of the Wapato Indian project, for which there is no non-Federal share, and that leaves $30 million to the total cost, $10.2 non-Federal share, and that adds up to approximately 35 percent.

Ms. GEORGE. Unfortunately, none of that is outlined in the current legislation. It isn't here on a project-by-project basis.

Senator EVANS. Well, I don't think it is in there by a project-by-project basis. I think it is on the overall.

Ms. GEORGE. Like you say, if it was in there project-by-project that the Keechelus/Kachess pipeline is this amount and the split was 65 percent Federal, 35 percent non-Federal, and if it was in there then we could add up the figures and figure how you got the 35 percent. But it is not.

If this is passed, I really don't know if this is the way it is going to end up in the bill if it is passed.

Senator EVANS. Generally, in the way the legislation is written, we try not to get over explicit in the legislation, because then you remove any kind of flexibility to respond to changed conditions.

There will be a committee report, which goes along with legislation, and the committee report is a significant part of the legislative history. If there is ever a problem or ever a conflict, and it isn't clear in the legislation itself, then the courts look toward the committee report as providing good information on what the intent was.

We will certainly make sure that, at least in the committee's report, that there is quite an explicit setting forth of the projects that have generated some concern.

Ms. GEORGE. Will the non-Federal interests have an opportunity to respond once the cost section has been divided up between the various interests, as far as who is paying what percent of which project, and how much benefit?

Senator EVANS. I guess any response would have to be within the framework of what the law says the non-Federal share will be so much.

Once we get into designing a project and into getting the benefits to be accrued, we'll have to find the best negotiated settlement between the, well, I guess there are really three general parties to this.

One, would be the State through general tax money, or through their referendum moneys.

The second would be the power users through offsite mitigation in the Northwest Power Act.

And the third would be whatever share individual irrigators, or irigation districts, might be asked to bear.

Ms. GEORGE. Again, our question goes back to if we're going to get 2 percent of the benefits from a certain project, are we going to pay 2 percent of the costs. That's not in black and white.

Senator EVANS. Good point.

Mr. MORRISON. I would just like to comment that these folks from Kittitas County have the ability to do some penetrating things to any proposed bill.

I would like to thank them because you, Mary Burke, in your own special way, have added immeasurably to the package in front of us. Obviously you have a number of questions we have not yet answered, but I appreciate the thoroughness of your approach.

I just want to assure you that the intent of this is in fact to take the next step, and part of it is designed specifically to assure people in Kittitas County that there are some things at the upper end of the system that can be improved, including both water storage and better water management through the pipeline, which originally came as a suggestion from the Kittitas Reclamation District. That is very much appreciated.

Also, let me announce one more time, so it's in the record, that I recognize those territorial rights, which many of you have, as being senior to a number of rights that exist here in the lower part of the project.

Mr. MOORE. Could I ask you one more thing.

I have fish screens on the river there; who is to maintain those fish screens; do you have anything in the project for that?

You know, we're going to have all these additional fish. We have a real problem with one stream in particular on the creek.

Senator EVANS. I think the ones in the Acts of the last couple of years, which are now under construction and being placed in the river at nonreimbursable Federal expense for operation to the extent that there are increases.

Mr. MOORE. What about the ones that are in place now that we're using?

Is it up to us to maintain those for the whole fishery is that your understanding?

Senator EVANS. I think those have been a project cost; have they not?

Mr. MOORE. No.

Senator EVANS. They have been private?

Mr. MOORE. Yes.

Ms. BURKE. I appreciate your comments, Sid, and thank you, Senator Evans.

I apologize for having lost my voice.

I do really appreciate the fact that you are recognizing those territorial rights.

I understand that you cannot articulate on every individual particuality in a bill, but I think that is something that needs to be

done so that we do not have this probability of court injunctions and suits hanging out there as we proceed with this.

I think there are some things that need to be addressed, whether or not it's in this legislation, in fact you can do that by your legislative discussion.

I really appreciate the fact that you're very cognizant of that, because we feel that those things, whether or not the lack of storage is putting the cart before the horse, we don't want to legally put the cart before the horse so that, well, I hope that you appreciate the fact that we're now being sued by practically everyone, except Congress.

Senator EVANS. Congress doesn't sue.

That's a law, sometimes that's worse.

We create the lawsuits.

Ms. BURKE. Well, let's hope this time you will alleviate that.

Senator EVANS. Let me ask you—I don't think I gave you an answer, I'm not sure precisely what the situation is on the fish screens—is this a case where these fish screens that have been required some time in the past?

Mr. MOORE. Yes. Well, I don't know if they were required, but they are in place.

There are many small tributaries that have these in the Kittitas Valley, like little irrigation diversions like ours. We have one there that takes care of three people.

We did, just last year, we took out an electric one because it fell apart, and for cost-effective reasons we just put in a permanent sliding screen in there. That was like milking cows, every day, because you would have to go out every day twice a day and clean that screen. The other one was electric and cleaned itself.

I didn't mind paying the power, but, boy, my wife sure didn't appreciate having to go out and scraping that screen.

Mr. MORRISON. Just like milking the cow.

Senator EVANS. I can't answer that right now.

We'll take a look at it, and get back to you. I'm glad we have something to look at.

Ms. BURKE. I might suggest that one of the few from the DOE or the Department of Fisheries can address that issue.

I think there is a difference between resident fisheries and the requirement for screening anadromous fish for screening, which is one issue we did not discuss this afternoon because of the time constraint.

When we have anadromous fish, we have a different problem than when we have trout; and part of that is my problem.

Senator EVANS. I might just say, as you leave, Mary, that your concern over some of the language and the fact that it isn't clear has plagued me since I have been in Congress.

People who technically write legislation, put it in legislative form, don't know what a period is. We end up with a sentence.

Well, this first sentence, by the time you get to a colon it's only 53 words long, and then you go for another 100 after that.

That's nothing like one that I read, not long ago, where the sentence was 223 words long from the beginning to the first period. That's hard to follow.

Mr. BURKE. We might say that Joe may have his faults in drafting, but he is a very considerate person to talk to, and we appreciate that.

Thank you.

Senator EVANS. Thank you.

Panel No. 8, David Ortman, Friends of the Earth; Phil Johnson, the Cascadians; and Loren Strain, Citizens for Responsible Water Projects.

Mr. Ortman.

STATEMENT OF DAVID E. ORTMAN, CONSERVATION REPRESENTATIVE, NORTHWEST OFFICE, FRIENDS OF THE EARTH

Mr. ORTMAN. Thank you, Senator Evans, Congressman Morrison, and staff.

My name is David Ortman. I am conservation representative for the Northwest Office of Friends of the Earth, in Seattle. Our office covers the States of Washington, Oregon, and Idaho, and has approximately 2,500 members.

We appreciate the opportunity to submit testimony and comments in support of Senate bill 2519, a bill to authorize certain construction projects and canal operation improvements that have been introduced by yourself and Senator Gorton.

We have testified before the Bureau in Washington, DC, before Congress, before yourself, as head of the Northwest Regional Power Council, on numerous occasions. We have attached some of the testimony to our comments that you had asked be included in the record.

One important element of the preliminary evaluation of nonstorage elements being considered for early implementation, which was not included in any of the statements made in Congressional Records, was a statement on page 1 of the Bureau's document, "nonstorage elements that may at this time not be included for early implementation should continue to be investigated as a further means of meeting our water resource objectives."

We believe, therefore, that section 10(a) of this bill should be amended as follows: "Four, and other nonstorage water conservation measures such as, but not limited to, reuse of Sulphur Creek and Granger Creek drainwaters." This was one of the proposals the Bureau had suggested earlier.

An additional concern is that the Wenatchee National Forest has just released its Draft Environmental Impact Statement and Proposed Land and Resource Management Plan. According to the Draft Environmental Impact Statement, their preferred alternative will increase annual water yield 13,000, 19,000, and almost 24,000 acre-feet in the first, second, and fifth decades. According to the proposed plan, roughly half the forest is in the Yakima watershed. Yet, the Wenatchee National Forest makes no effort to determine when this increased water yield will take place. If it occurs during times of peak runoff, this water yield will be wasted. If, however, water yields from the forest could be delayed longer into summer, instream flows would receive additional benefits. We would request that the Wenatchee National Forest address this concern.

In our view, the Yakima River Basin is like a sponge, and that sponge should be squeezed tightly before additional dams are built. It is our proposition that the primary reason for the current difficulties in the Yakima River Basin lies in the fact that under the 1945 consent decree, of the three major needs, senior irrigators, junior irrigators, and instream flows, only senior irrigators get their allotment, come hell or low water.

We believe this is analogous of the situation that existed in the energy field where we had preference customers for the energy pool of the energy resources in the region. That public preference clause has been, and apparently Congress has significantly modified, showing that change is possible to the types of allocations regimes in energy that could be transferred to water as well.

We believe that all water requirements could be satisfied over the long haul, if the occasional water short year were shared. Water conservation remains the least environmentally damaging alternative.

One reason for the lack of certainty concerning remaining water conservation benefits is that section 390jj(b) of Public Law 97-293 has yet to be fully carried out.

That subsection says, "each district that has entered into a repayment contract or water service contract pursuant to Federal Reclamation Law or the Water Supply Act of 1958, as amended, shall develop a water conservation plan which shall contain definite goals, appropriate water conservation measures, and a time schedule for meeting the water conservation objectives."

The Northwest Regional Power Planning Council recognized the importance of water conservation in its 1984 Columbia River Basin Fish and Wildlife Program said almost these exact words into section 904(a)(4)(b), to be specific, of that program. To date, we have not been able to get any response back from the Bureau over where those water conservation plans for each of the irrigation districts, and we would ask the committee to request that the Bureau or the irrigation districts provide you with an analysis of where they are, if possible.

Because of the current lack of compliance with either Public Law 97-293 or the section 900 of the Council's Fish and Wildlife Program, Friends of the Earth has proposed an amendment to the Fish and Wildlife Program requiring that these water conservation plans be developed by January 1, 1987.

S. 2519 identified seven elements which are proposed for authorization by Congress. While we do not have any objections to the Cle Elum Lake enlargement at this time, because the additional project water is dedicated to irrigation, and not instream flows, a basic question remains unanswered, which has been brought up by the ecologists and some of the irrigators, which has, since the 1945 consent decree, appropriated all flows in the Yakima River Basin, can additional reservoir projects or expansions be considered new water.

We believe this is a different question from the cases stated earlier concerning the Cle Elum Dam storage area, which was water that had never been through the project at all.

As you know, in the western water law, the addage is first in time, first in right, first in court. That always gives us pause before

we attempt to try and figure out who is going to wind up with any water.

Recently the General Accounting Office completed a study of the neighboring basin projects and Bureaus work over there, and found significant shortcomings in that.

Quoting from a letter to the editor which appeared in this year's March Herald Republic, "from the GAO report, the assistant regional director of the bureau's Pacific Northwest region told us that if a conflict arose between water for irrigation and fish, irrigation needs would be met. He said irrigation's water rights are superior to those of providing sufficient flow to meet the needs of migrating fish. He said that it is bureau policy that in low water years, the bureau will meet its irrigation commitments before it meets fish requirements because (1) the Columbia Basin project is authorized by the Congress for irrigation, and (2) the project water rights of 1938 predate the fish flow requirements established by the Northwest Power Planning Council in its 1982 fish and wildlife program."

There is no question that Congress could authorize flows for whatever purpose it wants. The question though would be whether or not compensation might need to be paid if water rights were indeed taken.

In conclusion, while we support the speedy passage of Senate bill 2519, we believe you will receive support from national conservation and environmental organizations.

We ask why should the Israelis be the only ones who have state of the art conservation elements. We, in the Yakima Basin, should be a prototype to the water conservation in this country.

We thank you very much for the opportunity to submit these comments in support of Senate bill 2519.

[The prepared statement of Mr. Ortman follows, additional materials have been retained in subcommittee files:]

FRIENDS OF THE EARTH

TESTIMONY OF THE N.W. OFFICE
FRIENDS OF THE EARTH

before the
Subcommittee on Water and Power
Senate Energy and Natural
Resources Committee

Field Hearing
on S. 2519

1 July 1986
Yakima, WA

Northwest office 4512 University Way NE Seattle, Washington 98105 (206) 633-1666

Good afternoon. My name is David E. Ortman, Conservation Representative for the N.W. office, Friends of the Earth, 4512 University Way N.E., Seattle, WA 98105. The N.W. FOE office covers the states of WA, OR and ID which has approximately 2,500 members. We appreciate the opportunity to submit testimony and comments In support of S. 2519, a bill to authorize certain construction projects and canal operation improvements in the Yakima River Basin, introduced by Senators Evans and Gorton.

Friends of the Earth has had a long-term interest in the Yakima River Basin. We testified at a BuRec public hearing on 19 April 1977 on the Bumping Lake Enlargement DEIS. On 25 April 1979 we testified before the House Committee on Interior and Insular Affairs in WA D.C. on H.R. 3489, a bill to authorize an enlarged Bumping Lake dam (which we opposed) and H.R. 2757, a bill which became P.L. 96-162 directing the Secretary of the Interior, with oversight by the U.S. Geological Survey, to conduct a feasibility study of the Yakima River Basin Water Enhancement Project.

On 6 July 1982, here in Yakima, we submitted a report to the N.W. Regional Power Council on the Proposed Yakima River Basin Fish and Wildlife Recommendations under the Regional Power Act. A copy of that report is attached and we request that it be made part of the hearing record. On 22 October 1982 we submitted testimony to the N.W. Power Planning Council on the Draft Fish and Wildlife Program and on 7 September 1983 we testified before the Council on proposed Yakima fish passage.

On 20 September 1982 we submitted written comments to the BuRec on its Phase 1 Study Team Report on the Yakima River Basin Water Enhancement Project and on 22 July 1983 we submitted written comments to the BuRec on its Phase 2 reevaluation of potential storage reservoirs. In June of last year, we submitted comments to the BuRec on its Phase 2 Status Report. Copies of these comments are attached and we request that they be made part of the hearing record, as well.

Since neither a State or Federal Environmental Impact Statement has, to date, been prepared, we believe that it is incorrect to say that a Yakima River Basin Enhancement Project exists or has been agreed to. Since 1979, the joint work of the U.S. Bureau of Reclamation (BuRec) and the WA Department of Ecology to carry out P.L. 96-162 has, however, revealed several non-controversial elements which appear to have merit, regardless of any total resolution of the complex issues in the Yakima River Basin.

The first such identified element was the need to rehabilitate fish passage facilities at existing irrigation facilities. In 1982, we supported H.R. 5301, a bill to rehabilitate the Yakima River basin anadromous fish runs. Thanks to the work of Senator Evans and Representative Morrison, a similar bill passed Congress in 1984, which authorized construction of these fish passage facilities, correcting decades long functional design problems which had plagued upstream anadromous fish passage.

One important element of the Preliminary Evaluation of Nonstorage elements being considered for early implementation (May 1986) on page 1 does not appear in either Senator Evans', Gorton's or Representative Morrison's Congressional Record Statements,

"nonstorage elements that may at this time not be included for early implementation should continue to be investigated as a further means of meeting water resource objectives."

Section 10.(a) of this bill should be amended as follows:

"4) and other non-storage water conservation measures such as, but not limited to, reuse of Sulphur Creek and Granger Creek drainwaters."

This would insure that other water conservation measures such as lining of sections of canals; replacement of gravity systems with pressure distribution systems; improvements in onfarm water management in the Roza, Sunnyside, Wapato, Kittitas, and Union Gap irrigation districts and water banking could be further studied.

An additional concern is that the Wenatchee National Forest has just released its DEIS and Proposed Land and Resource Management Plan. According to the DEIS (p. II-29), their Preferred Alternative (C) will increase annual water yield 13,300, 19,100, and 23,900 acre-feet in the first, second, and fifth decades. According to the Proposed Plan, roughly half the Forest is in the Yakima watershed. Yet, the Wenatchee National Forest makes no effort to determine when this increased water yield will take place. If it occurs during times of peak runoff, this water yield will be wasted. If, however, water yields from the forest could be delayed longer into summer, instream flows would receive additional benefits. We would request that the Wenatchee National Forest address this concern.

In our view, the Yakima River Basin is like a sponge and that sponge should be squeezed tightly before additional dams are built. It is our position, that the primary reason for the current difficulties in the Yakima River Basin lies in the fact that under the 1945 Consent Degree, of the three major needs (senior irrigators, junior irrigators and instream flows) only senior irrigators get their allotment, come hell or low water. We believe that all water requirements could be satisfied over the long haul, if the occasional water short year were shared. Certainly, instream-flows and junior irrigators have borne the brunt of shortages in the past. If the shortages were shared among with the senior irrigators (with compensation) we believe that new dams in the basin could be avoided. Water conservation remains the least environmentally damaging alternative.

One reason for the lack of certainty concerning remaining water conservation benefits is that Section 390jj(b) of Public Law 97-293 has yet to be fully carried out:

"Each district that has entered into a repayment contract or water service contract pursuant to Federal reclamation law or the Water Supply

Act of 1958, as amended (43 US.C. 390b), shall develop a water conservation plan which shall contain definite goals, appropriate water conservation measures, and a time schedule for meeting the water conservation objectives."

The N.W. Regional Power Planning Council, recognized the importance of water conservation and in its 1984 Columbia River Basin Fish and Wildlife Program:

"Each Yakima River Basin irrigation district that has entered into a repayment contract or water service contract pursuant to federal reclamation law or the Water Supply Act of 1958, as amended (43 U.S.C. 390(b), will promptly develop a water conservation plan which will contain definite goals, appropriate water conservation measures, and a time schedule for meeting the water conservation objectives." (904(a)(4)(B)

Because of the current lack of compliance with either P.L. 97-293 or the Section 900 of the Council's Fish & Wildlife Program, Friends of the Earth has proposed an amendment to the Fish & Wildlife Program requiring that these water conservation plans be developed by 1 January 1987. We would request that this Committee obtain from the BuRec a list of all conservation plans prepared by Yakima River Basin irrigation districts to date.

S. 2519 identifies seven elements which are proposed for authorization by Congress. While we do not have any objections to the Cle Elum Lake enlargement at this time, because the additional project water is dedicated to irrigation, and not instream flows, a basic question remains unanswered: Since the 1945 Federal Court Consent Degree (Civil Action No. 21) appropriated all flows in the Yakima River Basin, can additional reservoir projects or expansions be considered "new" water?

The 1945 Consent Degree, the BuRec and the Department of Interior suggest they can not.

"2, The obligations of the United States to deliver water from the natural flow of the Yakima River, and its tributaries, from storage in its various reservoirs on the Yakima watershed, and from other sources, to the plaintiffs, to the defendants, and to the lands within the Wapato Indian Irrigation Project, are as set forth hereafter in this judgment." (emphasis added). (1945 Consent Degree - page 2.)

"Prior to construction of enlarged Bumping Lake, an application would be made to the State of Washington for a storage permit to increase the present storage of Bumping Lake to 458,000 acre-feet.

"This right would be junior to all existing rights in the basin." P. 50-51 of Bumping Lake Enlaragement, Joint Feasibility Report, June 1975,

Yakima U.S. Dept. of Interior.

The attached Department of Interior Soliciter's opinion of 2 January 1979 supports this position, as well.

The BuRec, in its "Preliminary Evaluation of Nonstorage Elements Being Considered For Early Implementation" argues that such assurances can be given. Without identifying any specific cases, the BuRec appears to be relying on a 1978 Federal District Court case regarding the dead storage water issue from Cle Elum Reservoir. We would maintain that dead storage water is a fundamentally different question from whether flows, which would normally proceed through the basin, but are now held behind a reservoir, constitute "new" storage water.

Senator Evans statement in the Congressional Record mentions that "the Yakima Basin has become one of the most productive agricultural areas in the United States." Without disputing that statement it should be pointed out that according to the Bureau of Reclamation 1983 Summary Statistics Vol. I, Water, Land, and Related Data - Crop Production Report, p. 138, the largest single crop by area in the basin is irrigated pasture (70,647 acres out of 367,669 total. Total forage was 139,242 acres.) The largest single crop value was apples ($145,208,680 out of $421,320,472 total. Total fruits were $27,367,825). Do more hay and apples really merit Congressional funding? As the attached letter from N. Joe Cromarty to Governor Gardner, dated 20 February 1985, makes clear, the real problem in the Yakima Basin is not crops but markets.

In conclusion, while we support the speedy passage of S. 2519, we are not convinced that all water conservation measures have been wrung out of the Yakima Basin, or that more structural solutions are necessary at this time. Thank you for the opportunity to submit these comments.

Senator EVANS. Thank you very much.
Phil Johnson.

STATEMENT OF PHIL JOHNSON, THE CASCADIANS

Mr. JOHNSON. Thank you, Senator Evans, Congressman Morrison, for your invitation to testify here today.

The last time I had the chance to testify before a congressional committee was before the Public Lands Subcommittee.

At that time, my interest was, and still is, water management in the Yakima Basin. That was one of the justifications I found for designating the wilderness as a way of protecting the watershed.

With the wonderful help of the Washington Congressional Delegation, that, in fact has been accomplished.

A significant portion of the watershed of the Naches and the Tieton Rivers are now protected by wilderness conservation.

In the past, I have been in a quandry in testifying before these sorts of things because I had to wear two hats. I was classified as a conservationist through my affiliation with the lands, and for the past 6 years have been managing three private irrigation canal companies in the Yakima Valley.

I terminated that association this year, and I appear not as a representative of those private canal companies, but certainly the comments that I make will be influenced by my experiences that I have had while managing them.

As conservationist, I am conservation chairman of the Cascadians, a local hiking and climbing club which has not taken a position on this particular legislation, and may not.

So I guess you would have to view my comments merely as being an interested citizen with more than just a common interest in the water enhancement project. I have attended almost all of the meetings, workshops, and so forth, that the Bureau has held here, and also from my experience in managing the ditch companies.

What it boils down to, I think, is it's interesting to comment that over the life of the enhancement project planning that has been going on since I first attended a meeting some years ago, nonstorage alternatives were hardly even mentioned in the original drafts that were furnished. It now turns out that we're having hearings on nonstorage alternatives, when we thought the first hearings we had would be on enlarging Bumping Lake. I think things are maybe finally getting in the right perspective.

Nothing that we do in this valley is going to change things very much unless we get down to the ultimate user of the water, and in some way give him some incentive to save some water, to use it more efficiently.

Certainly there are efficiencies in canals. Many of our canals were built in the days when field irrigation was the most common method, and many of those canals have not changed in their construction or their management to accommodate more modern irrigation that is now being done.

As a canal operator, I had problems on certain days trying to keep enough water in the bottom of an old canal, that was originally built in 1885, trying to accommodate the type of irrigation that was going on now.

In the old days people would turn their water on in the spring, and probably never turn it off until fall. Now they are able to irrigate in a few days and shut their water off.

Unfortunately many of the water users don't elect to shut their water off, but merely spill it into wasteways. On days in which the canals were dry, I could drive around the valley and notice wastes ditches were running brim full, our answering service was getting calls from property owners complaining that their basements were being flooded by their waste waters. It would be hard to convince that property owner, with 2 feet of water in his basement, that there was a water shortage in the Yakima Valley.

In fact, I think we maybe had a water management problem and that is probably as bad, or worse, than a water supply problem.

We have a multiplicity of water jurisdictions in the basin. Here we have situations where water rates very from a few cents an acre to as high as $40, $50, and even $60 an acre. The water rights can vary from as little as 3 acre-feet to as much as 15 acre-feet, and many times in reverse proportion of the amounts being paid for it.

Some of the most expensive water, per acre, yields the least amount of water for the season. Some of the cheapest, yields the most. There is little incentive under this type of a billing system for a farmer now to engage in any kind of water conservation unless he has the opportunity to transfer that unused water to somebody else and receive some money for it, he gets no benefit at all from installing a more efficient irrigation system. His assessment is probably going to be based entirely on the acres that he has, or in the case of the private companies, that we base it on the amount of shares of stock he has in that company that he has acquired. And over the years, he may have acquired far in excess of what he needs for that particular land, looking toward the day when some Government agency will take half of it away from him, and he will still have enough.

These situations, I think, tend to skew figures, as far as water demand is concerned.

The other problem is that we have to divert more water into the canal on any given day than is going to be used by the customer, only to discharge it out of the bottom end to accommodate for the fluctuating water demand.

People that are able to irrigate 2 or 3 days and then shut off, we have to keep the water available, which means we're discharging it back into the river. So you can maybe argue that we haven't lost it, but it certainly didn't allow fish passage between our intake and the discharge point.

It would be better if the systems could be operated so that we had to divert into the system only once.

In many cases, water isn't even measured to individual irrigators. They take out of the canal whatever they can take. There are no standard irrigation boxes on many of the companies. Most of the larger districts have modernized to the point where it is measured, but many of the irrigators are on small, private ditches; there is no measurement of water. Again no incentive for them to conserve, or even to upgrade the canal.

Maybe at some point, when the adjudication is finished, and these water rights are more precisely nailed down, we won't be

able to divert that extra water to accomodate the leaks of these old canals. When that day arrives, where is the money going to come from to help those companies upgrade their canals? Many of them are in the same state they were 100 years ago when they were first dug, and have had only minimal maintenance in the meantime.

Total enhancement of the water system in the Yakima Basin must include ways to help out those small irrigation canal companies, and especally the individual farmers, some way to give them some incentive to upgrade their system.

We have an example of a district that is wiliing to do that sort of thing, which is the Yakima, Tieton Irrigation District, which is in the process of pressurizing.

I found, in talking to farmers in the canals I used to run, that for same reason they were unable to accept the fact that their total irrigation costs also included the power to pump it with. So when they look askance at the cost of the pressurizing of the canal system, they know their water assessment is going up. But for same reason, they forget that their power bill is going to drop to zero as far as their pumping bill is concerned.

I'm greatful for what Senator Evans had to say about conservation that conservation, in the case of power, makes the power available at a cheaper cost than it would be to generate it. I think the same is true of water.

The main problem that will exist, as we develop this conservation, and with some kind of Government insistence, is to obtain some kind of equity, for example, a district who has kept their assessments artificially low, with little or no maintenance, would like very much for some Government agency to come in and rebuild the canal for them while other canal companies that have offered to make the additional assessments to upgrade their canal, I don't think they should have to pay, at least as much, for their improvement as this other district who has not taken care of their canal.

How this can all be done, I don't know. I guess that's your problem.

I have presented more problems than I have answers, but I think these are factors that should be addressed in the enhancement project.

Thank you.

Senator EVANS. Thank you very much.

Mr. Strain.

STATEMENT OF LOREN STRAIN, CITIZENS FOR RESPONSIBLE WATER PROJECTS

Mr. STRAIN. Thank you, Senator Evans, Congressman Morrison.

I have no written comments today, but I will mail them to you.

I have a few remarks that I would like to make, though, at this time.

I have heard this morning, Mr. Keys say that Sulphur Creek enters into one or more of the elements, and I was not quite certain what relation that had to what he had in mind for what the study team had in mind for Sulphur Creek in the phase II report.

In the phase II report, Sulphur Creek was to have some drainage waters returned, which would contribute something like 43,500

acre-feet of saved water. So that obviously is not a part of the project elements as it is shown covered in this bill.

The same is true of the Granger drainwaters. In the phase II report, the Granger drain was to be contributing something like 15,000 acre-feet.

If those aspects are not now included in this bill, perhaps it could be, as it would be almost a 50 percent increase in the amount of available water made.

I'm not too sure what it would be to the additional cost.

Along the same general lines, I'm uncertain as to just how much work was to be done with the Sunnyside element. If that includes canal lining, then, I think maybe someone has downgraded their estimate because the canal lining alone, in the phase II report, was to be good for about 12,000 acre-feet of saved water.

If that's covered, fine; if it's not, perhaps we better arrange to have that.

The lining of Roza Canals and automating of the Roza System was, at one time, suggested by, I do believe, Mr. Van Gundy. I see that as not one of the elements of the legislation either.

I would suggest that if it is not feasible to include it in this bill that it not be overlooked in future legislation, because it certainly is a possibility, so that authorities at Roza have said.

I agree completely with what Phil here has said about on farm conservation, and perhaps there is a way to encourage that with some trust funds to provide for rotating funds for accomplishing this.

How you can encourage the farmers who want to do it, I'm sure you gentlemen can come up with a solution to that.

David Ortman mentioned awhile ago about the management of forests for watersheds by the forest service. We think that that is also a viable solution and one which is virtually cost free.

Water banking has been, I believe not mentioned at all today, and it may be a concept whose time has not yet come. However, it is one of the conservation measures which might be still a way to further extend what you have so well began with 2519.

Many of the other witnesses today have branched out from the discussion of your proposed legislation to include storage facilities, and I would like to not break the trend.

I see that, continually over the last several years, every time the Bureau of Reclamation mentions Wymer Reservoir, they have reduced its size. I have yet to see any justification for any of those changes. It started out as a 380,000 acre-feet reservoir, and it is now something in the neighborhood of 140,000. I don't know why they may have done this. They have never given us any justification.

If it was a good site for a large reservoir at one time, presumably it is still the same amount of rocks that are there now as were then.

We encourage the selection of the Wymer site, as opposed to Bumping Lake. We think it is, without a doubt, the least environmentally damaging, not counting the purer conservation aspect. A purer conservation approach could conceivably do the job, then that is the approach we would back with the most diligence.

Regarding the Wymer site, our analysis of the phase II data shows that there is a strong possibility, in terms of the number of fish which can be produced per acre-foot of stored water, the Wymer site is really the most efficient site.

If the Bonneville Power Authority were to contract the power necessary to do the pumping at Wymer, and then retrieve part of their costs as the power was generated as the water was released, that would go a long ways toward making it also the most economical.

So for these reasons we feel strongly about the selection of Wymer, if indeed the storage is required.

We think that the bill which you have presented is decidedly a step in the right direction, and we support it.

Thank you.

Senator EVANS. Thank you very much.

Mr. Ortman, in your testimony you mentioned beginning of the water yield on the Wenatchee Forest in their proposed land resource management plan.

What's the rationale for the increased annual water yield?

Mr. ORTMAN. That relates to timber cutting, and their assumption that by removing more trees it would result in more runoff where potential snow pack is.

The documents, and I have all three of them, the plan does not explain much about the hydrology and the water yield even though we submitted, and acknowledged we did so, as request of theirs on the analysis of EIS. They have not yet done so.

We will be going back to the forest and asking them what they're talking about. Perhaps if your office would also direct some questions to them, we could get some of those answers.

I just report the figures as they're listed there. Those are the acre-feet, but again they don't explain the timing or really what the impacts are.

We think they ought to do that.

Senator EVANS. It seems to me that they are proposing some reduction in the harvest rate. It seems to me that a reduction in the harvest would generally mean a retention of water up there, or the use of water for tree growth.

Mr. ORTMAN. They do break it up by subbasins, but again they don't break out the timber plans necessarily by subbasins.

These are questions that we will be asking the forest in their draft EIS comments, and hopefully they will be able to clarify those.

Senator EVANS. That is a question I'm fascinated by. That is a proposal, and I'm interested in seeing what their rationale is.

You also mentioned the concept of sharing the water shortage.

You say if the shortages were shared with the senior irrigators, with compensation, we believe that new dams in the basin could be avoided.

I can follow you as far as sharing water shortages as long as you provide compensation for those who would then give up some of their water. Who pays?

Mr. ORTMAN. Well, who pays. That is always the question.

I will send you a copy of a policy study that was done by the Institute for Contemporary Study down in California, entitled "Water

Banking, How to Stop Wasting Agricultural Water," which goes into considerable detail on the concepts of water banking.

Clearly under, and this has been, I think, emphasized by the Bureau's studies and by the presentation by ecology department, the current water eating system in the State of Washington, with its water rights, does not really allow for efficient trading. It in fact makes more sense to provide your water right to instream flow use.

The California set up, I understand, operates much like a bank with Federal entities providing those moneys.

It might be pointed out that if the Federal Government already, in concept, is committed to spending $150 million for a concrete solution to the problem, perhaps it at least makes sense to look at spending some of that money in terms of setting up a bank that would allow for transfer and satisfying what are clearly concerns by the senior irrigators at this point.

Senator EVANS. Representative Morrison and I were doing a little calculating up here, and I don't think that there is any question that if you were to go out tomorrow and offer a person with a water right a certain number of dollars per acre-feet, this year, and for 25 or 30 years to come, for that water right, they would give it up darn quick.

It is not a question of whether, it is just a question of what price.

I can't imagine that there is a farmer in the Valley who, if you offered him $1,000 an acre-foot for the next 30 years, they would run over each other trying to get it.

Mr. MORRISON. Actually the bank would be pushing.

Senator EVANS. So then the question is, is $500 enough, is $100 enough, is $60 enough, is $50 enough, and at some point it is cheaper to do that than it is to build a reservior. That's the whole nature of a market clearing price, if we can ever devise it, in effect, that could provide for an alternative to additional storage.

Now, I think that everybody can guess as to whether that's feasible, or whether the prices are reasonable or viable, but it's worthwile taking a look at.

Mr. ORTMAN. If I might just add something.

I think what we would be looking at is to try to compensate during the water short years. In other words, you might not necessarily want to set up a contract that runs for 30 years if only 3 of those years are a necessaity tor that.

Senator EVANS. Sure. In fact that's very much like the interruptable power for the aluminum companies.

It may be a concept that may have some usefulness.

You had a quote from somebody, and I'm sorry I wasn't able to recognize whose quote that was on relcamation.

Mr. ORTMAN. That was from the GAO report they had done on the Columbia Basin project. That quote isn't quoted in reading, but the letter appears right after my first four pages of comments.

Senator EVANS. Is the author identified?

Mr. ORTMAN. Well, the GAO doesn't identify their authors.

It is one of their blue-cover reports.

I can provide the citation to that report, but it was the one that was released about 6 months ago, or so.

Senator EVANS. Well, he is identified as the Assistant Regional Director of the Pacific Northwest Region. That tells us something.

Mr. ORTMAN. That's correct.

Senator EVANS. I would guess that there would be quite a substantial disagreement by some, with that statement.

Mr. ORTMAN. I'm sure there is always disagreement. That is unfortunately why they have lawyers and courts and why this all gets to be harassment after awhile.

Senator EVANS. Representative Morrison.

Mr. MORRISON. My respect to the work that your group does. I appreciate the arenas where we have been able to coordinate our efforts.

I, too, am interested in forest planning.

I know that the Forest Service indicates that they have harvesting techniques that can delay the runoff, and I'm not sure, but I really intend to get to the bottom of that because I think that is indeed significant.

Phil Johnson, do you think that some of the small canals that you used to work with, and managed, have the potential for consolidation, and water savings in that way, like some of the ones we plan to do a study on in this bill?

Mr. JOHNSON. Yes, I think so. In fact two of the canal companies share a common intake and the first mile of canal. The division is further down stream. It should have been one company probably from their inception, but that wasn't the way it was done, and nobody wants to change it now.

Practically speaking, that would be the best way to do it.

We hired an engineering firm from Yakima to do an inventory on the canal. They did aerial photography and mapped the whole system for us, and their engineer's comments was how great it would be to combine the Lower Naches Companies into the Naches-Selah Irrigation District, whose canal is considerably on higher elevation, and which would provide gravity pressures for all of Lower Naches.

The farmer's reaction to this is, great, but who is going to pay for it.

When you're now getting your water for, say, $10 an acre-foot, and the average for Yakima County is somewhere between $30 and $40, you're not willing to have your water rates go up.

In fact in the Naches–Selah Irrigation District this year, water went to $36 an acre. Of course this $10 to $15 in the Lower Naches area, so combining with that district scares them because they think then we're going to have to pay that kind of money.

Mr. MORRISON. I sense, from your comments, as a former manager of the canal companies, that benefits could accrue from efforts to coordinate the administration of water through these companies.

Mr. JOHNSON. Yes, I think that's the case.

Over the years that I was with the company, I had occasion to talk with people from the Department of Ecology, and one of their employees commented once that he thought how much better it would be if there was one vast irrigation district in the whole Yakima Basin rather than having to deal with all these little entities.

That may be pie in the sky, but I don't know.

Things can get so large that they are unmanageable, also.

Mr. MORRISON. School districts will tell you the same thing.

Mr. JOHNSON. Witness the Federal Government, for example.

Mr. MORRISON. We appreciate your comments, Mr. Strain.

I have had my eye on the Wymer site for some long time, and look forward to the environmental assessments there.

I think if there is a reason at all, the Bureau can speak for itself on the changing patterns of size, it's because they have accommodated the needs that seem to be coming through the study. I think, at this point, Wymer has some flexibility as to the capacity that might be needed there.

Mr. STRAIN. It has a great deal of flexibility, both as a site, and once built, the operation of it has more flexibility that any of the other choices they have.

Mr. MORRISON. Particularly with the refill capability.

Mr. STRAIN. Yes.

Mr. MORRISON. Thank you.

Senator EVANS. Thank you.

Our thanks to this last panel and to all of you in the audience who have been so patient and waited with us throughout the day.

Particular thanks, and I'm always astonished at how they do it, our court reporter, Ms. Malinda Avery. It is a striking attribute. I don't know how they can take all the words down and get them accurately, but they do indeed.

And thanks to the Yakima Community College which has provided us this splendid place to have our hearing.

Thanks to everyone. This has been a great help to us in trying to mold a better bill, trying to see what we can do to send it forward.

We will take the testimony we received today, and the other material that will come in during the next 3 weeks, and do what we can to draft a bill that can go forward in both House and Senate committees. We will take it as far as we can this year, and while the odds are against us getting it passed this year, we'll be first out of the box in January. Hopefully we can move rapidly enough to give people an idea of what the next step ought to be.

All I can say for myself, and I suspect for Representative Morrison as well, the day we get this bill through we will be back starting on phase III.

With that, the subcommittee is adjourned.

[Whereupon, at 3:45 p.m. the hearing adjourned.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

ANDREA BEATTY RINKER
Director

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
Mail Stop PV-11 • Olympia, Washington 98504-8711 • (206) 459-6000

86 JUN 30 AM 7:41

June 20, 1986

Honorable Daniel J. Evans
United States Senate
Washington, D. C. 20510

Dear Senator Evans:

Events of the past few months make it apparent that adjustments must be made in the Bureau of Reclamation's fiscal year 1987 planning budget so that work needed to complete the Yakima River Basin Water Enhancement Project (YRBWEP) study can continue.

YRBWEP is a valid concept in helping to resolve the basin's water problems, and that is why we have invested staff effort and funding as a cooperator in the study. Fishway improvements now being constructed emerged from the study as a priority program. Legislation recently introduced by you and other delegation members would authorize water savings measures of significant benefit to the basin. These activities are favorable indicators of YRBWEP's value.

We were hopeful that acceptable proposals to complete off-reservation development (particularly new storage facilities) and on-reservation development would be complete by the end of this year. Much plan formulation has been done in the past six months and results provided to key interests for consideration. It is apparent that as many as four alternatives for off-reservation development will require detailed evaluation before agreement on a preferred action can be reached. We anticipate that the Yakima Indian Nation will request detailed evaluation of development potentials in at least three areas within the reservation before an on-reservation plan can be proposed.

We request your assistance in adding $575,000 to Reclamation's fiscal year 1987 plan formulation budget to initiate detailed on-reservation resource evaluations and proceed with investigations provided for in Section 10 of Senate Bill 2519. The enclosure identifies work elements associated with this funding request. Any further funding needs related to YRBWEP work and associated reports would be included in Reclamation's future years budget request.

The State of Washington is committed to increasing its direct involvement and financial participation in the study. During the past legislative session, SSB 4418 was passed which stressed the need for long-term planning

of water use and water supply projects, specifically directed continued participation in the Yakima study and appropriated $250,000 for expenditure during the current biennium on Yakima study activities. I believe the record of state financial participation in this study from its inception is evidence of the priority we place on this work and our good faith in working cooperatively with the federal government.

Your effort in regard to this request will be most appreciated.

Sincerely,

Andrea Beatty Riniker
Director

ABR:tf

Enclosure

cc: Commissioner of Reclamation, Washington, D. C.
Laird Harris, Governor's Office
Dave McRaney, Governor's Office

DRAFT

FY 1987 YRBWEP
ADDITIONAL INVESTIGATION FUNDS NEEDED

Yakima Indian Nation work	$400,000
Roza Division groundwater	75,000
Consolidation of diversions for delivery from Roza Canal	50,000
Kittitas Valley system improvements	50,000
Total	$575,000

June 30, 1986

RE: Hearings, Subcommittee on Water and Power

Dear Mr. Murkowski:

Speaking as a Washington State Senator and a member of the Senate Agricultural Committee, I share a strong concern for the improvements in the Yakima River Basin.

With some minor improvements, both the Senate and Agricultural Committee in Olympia have worked this issue for years without passing this legislation that provides some of the necessary improvements for some of this rich land.

The United States Congress and Senator Evans, along with Representative Morrison, are to be congratulated for introducing this much-needed legislation since the drought years of 1978 and 1979. Until the United States Congress and the State Legislature takes the necessary action or remedies, we are most vulnerable to the repetition of the disastrous consequences of the years 1978 and 1979.

I would raise some concerns that some of these improvements, by necessity, have Federal and State sharing, indicating Washington State's share to be 35% of the cost. While I'm sure you must be aware, there are like projects in the United States with the state government share having 30% of the cost. I would propose your Committee finds the need to be consistent with this issue.

I am also a bit concerned with the wording of this proposal. There could be some questions raised that the United States Congress is usurping the states' water rights, which has long been a state right. Some of the provisions in this proposed legislation could be easily interpreted that the Congress is dictating the control of water rights which have been traditionally a state's right.

I would hope the United States Congress could pass this legislation before the 1987 session of the Washington State Legislature. If that happens, I, as one member, would pledge all-out support in the appropriation legislation. After legislation is passed, the Washington State Legislature should pass the matching legislation before the United States Congress makes appropriate legislation.

Max E. Benitz Sr.

Senator Max E. Benitz Sr.

Kennewick Irrigation District
P. O. Box 6900
Kennewick, Washington 99336-0401
Telephone (509) 586-1611

1986 JUN 18 PM 11:50

June 4, 1986

212-214 West First Avenue

The Honorable Daniel Evans
United States Senate
702 Hart Senate Office Building
Washington, D. C. 20510

RE: Early Implementation of Legislation for the Enhancement Plan

Dear Senator Evans:

The Board of Directors of Kennewick Irrigation District has reviewed the May 30, 1986 draft legislation providing for early implementation of certain Enhancement Project elements.

The K. I. D. Board continues to support the Enhancement Project. Early implementation of certain project elements is an effective means of demonstrating the Enhancement Project's problem solving abilities as well as maintaining enthusiasm for the project.

In reviewing the draft legislation, the District is extremely concerned about Section 5 (a). This section makes in-stream flows at Prosser Dam a priority over Chandler power water diversions and K. I. D. irrigation water diversions. Chandler power water is crucial to maintaining consistent water elevation in the K. I. D. canal. The power water and power generators are utilized as a regulator to compensate for daily fluctuation in the Yakima River flows. Specifically, when river flows increase or decrease, which correspondingly increase or decrease the flow in the Chandler Canal, the power generators absorb this fluctuation to maintain constant deliveries in the K. I. D. canal. Without this regulation, the flow into the K. I. D. canal will fluctuate according to the daily river fluctuations.

The K. I. D., since 1982, has installed miles of PVC liner in our canal system. Our 5 year Master Plan and budget forecast calls for this lining project to continue into the year 1990 resulting in many new miles of PVC lining. This project has and will continue to prevent catastrophic failures in our system and conserve irrigation water by stopping seepage losses as the PVC liner makes the canal totally impermeable to water. However, 16 inches of cover material overlying a smooth PVC surface on a 2 to 1 slope, any rapid fluctuation in water elevation could cause the cover material to slide to the bottom of the canal, plugging the canal. This may result in an extremely rapid rise in water elevation overtopping the embankment and further resulting in canal failure. Also, fluctuations in the canal lead to fluctuation in deliveries to the farming units which would lead to a

whole host of problems for the water users.

Under existing contracts between the U. S. Bureau of Reclamation and the K. I. D., irrigation delivery to the K. I. D. canal has priority over any power water functions. Section 5 (a) implies instream flows will take priority over both irrigation and power which is unacceptable to the K. I. D. Language used elsewhere in the draft legislation addressing this concern is not strong enough. Language should be included in Section 5 (a) recognizing and affirming water priorities as irrigation (full supply), instream flows, power water. The relationship between the Chandler power generators and delivery to the K. I. D. canal should be further detailed in committee reports.

The Board is further concerned how power subordination will affect the districts current diversions. Historically, the K.I.D. has received full water supply, even in drought years when the upper valley was rationing. This was accomplished by foregoing power generation and utilizing available instream flow to meet irrigation demand and established U. S. Fish and Wildlife flows at Prosser Dam. If Chandler power subordination is passed by proposed federal legislation, would instream flows be curtailed to meet full irrigation supply (providing established U. S. Fish and Wildlife flows are maintained)?

Thank you for the opportunity to review this draft legislation, the Directors and staff are ready to meet with you and/or your staff for further clarification of this issue should you need assistance.

Very truly yours,

KENNEWICK IRRIGATION DISTRICT

William C. Kinsel, President

cc: Sid Morrison
Slade Gorton
Yakima Project Office
Boise Regional Office
Department of Ecology

PC/lk

Misc 3/13/86
SENEVANS.FNL

DELIVERING WATER TO 50,000 ACRES OF IRRIGABLE LAND IN THE HEART OF THE STATE OF WASHINGTON

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VICE CHAIRMAN
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LES KNUDSEN

KITTITAS RECLAMATION DISTRICT
CORNER OF FOURTH AVENUE AND WATER STREET
MAILING ADDRESS: P.O. BOX 276
PHONE: (509) 925-6158
ELLENSBURG, WASHINGTON 98926

LaMOYNE C. HENDERSON
SECRETARY-MANAGER
CONE, FRABER, GILREATH
& KORTE
ATTORNEYS

1986 JUL 25 PM 4:53

July 15, 1986

Dear Sir:

The Kittitas Reclamation District is pleased to see progress in the authorization of elements of the Yakima Enhancement Project, which is a start to resolve our serious over appropriation problems. We must continue towards new storage elements at the earliest possible date since the Yakima River, passing through the Kittitas Valley, has become the major spawning area. Consequently more habitat will be involved above Easton when the new fish facilities are installed requiring even more releases for instream flows. Presently under the Quackenbush order approximately 80,000 acre feet are released for instream flows from the reservoirs located in the upper Kittitas Valley.

We feel there are some concerns and possible language interpretations which need further consideration in SB 2519:

The Keechelus to Kachess pipeline is mainly a benefit for fisheries and operation purposes for better hydraulic control when the Easton fish facilities are installed. Therefore, we feel the pipeline should be installed in conjunction with the Easton fish facilities, which will introduce an added 12 miles of spawning area, thus the need for more instream flows.

The three foot enlargement of Lake Cle Elum should provide water for fish protection required under the Quackenbush order, thus allowing the storage water for which we are presently obligated by repayment contract and currently using, to be returned to the irrigators.

We have some concern on how different entities, public or private, are offered to buy or pay into these elements. How does it protect the different water rights? The language does not go far enough to guarantee the existing water rights will not be affected.

Also, under Section 8(b), we are concerned that this will amend the existing irrigation repayment contracts causing those Districts to be subject to the 1982 Reclamation Reform Act repayment section. Amendments to our contract could financially jeopardize landowners within our District under the present economic conditions.

We appreciate your attention to this matter and look forward to hearing your response to our concerns. We sincerely hope to see progress continue in this regard.

Sincerely,

LeMoyne C. Henderson
Secretary-Manager
Kittitas Reclamation District

da

Publishers of the Oregon Cattlemen Magazine

Oregon Cattlemen's Association

Red Lion/Lloyd Center Hotel
1000 N.E. Multnomah Street
Portland, OR 97232
Phone (503) 281-3811

July 17, 1986

The Honorable Senator Daniel J. Evans
702 Hart Building
Washington, D.C. 20510

Dear Senator Evans:

On July 9th, 1986, Mary Burke, Chairman of the National Cattlemen's Association subcommittee on Water Rights and Resources, testified before your committee on S. 2519.

We have reviewed her testimony and are in complete agreement with the National Cattlemen's Association's position in opposing this bill as written. We in Oregon, as are the other Northwest states, are most concerned about the protection of our irrigation systems. As you are aware, irrigation is the primary life blood of many sectors of agriculture in our area.

Therefore, we must oppose S. 2519 as written, and support the position of the National Cattlemen's Association in the testimony presented to you on July 9th by Mary Burke.

Sincerely,

Robert H. Skinner
President

cc: Senator Bob Packwood
Senator Mark Hatfield
Congressman Denny Smith
Congressman Bob Smith
Senator Slade Gorton
Congressman Sid Morrison

PRESIDENT
Robert H. Skinner
P.O. Box 210
Jordan Valley, OR 97910

1st VICE PRESIDENT
Bill Waite
Route 1 Box 135
Monument, OR 97864

TREASURER
Lynn Lundquist
Rt. 1 Box 610
Powell Butte, OR 97753

2nd VICE PRESIDENTS
King Williams
Box 210
Canyon City, OR 97820

Bill Boothman
1308 D Avenue
LaGrande, OR 97850

Ron Curran
Route 2 Box 7280
Heppner, OR 97836

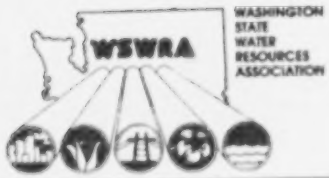
Don Gomes, Sr.
P.O. Box 68
Madras, OR 97741

Jack Samuels
P.O. Box 701
Lakeview, OR 97630

John Rosebrook
P.O. Box 46
Beavercreek, OR 97004

Les Marks
Rt. 3 Box 3730
Hermiston, OR 97838

EXECUTIVE VICE PRESIDENT
Donald Dickenson
1000 N.E. Multnomah St.
Portland, OR 97232



1986 JUL 21 AM 11:50

EXECUTIVE OFFICE — P.O. BOX 593 — YAKIMA, WA 98907-0593 — (509) 575-0026

July 17, 1986

Senator Frank Murkowski, Chairman
Water and Power Subcommittee
Senate Committee on Energy and Natural Resources
Attention: Russell Brown
Dirksen Senate Office Bldg., Room 358
Washington, D. C. 20510

RE: S.2519

Dear Senator Murkowski:

The Washington State Water Resources Association represents the interests of the state's 96 irrigation districts which encompass more than one million irrigated acres. The Association is in full support of the Yakima River Basin Water Enhancement Project and the concept of early action on non-storage elements.

Because of the great diversification of our membership, we have asked the districts directly affected to comment on each specific element of the early implementation. Therefore, let me just reiterate our continued support for this important effort.

Sincerely,

Jeanne Dickman

Jeanne Peck Dickman
Executive Secretary

jpd

cc: Senator Dan Evans
Senator Slade Gorton
Congressman Sid Morrison

Washington Cattlemen's Association, Inc.
P.O. BOX 98 • 1720 CANYON ROAD • ELLENSBURG, WASHINGTON 98926 • (509) 925-9871

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Executive Secretary

Ann E. George
Assistant Administrator

Marlyta Deck
Legislative Secretary

July 21, 1986

The Honorable Daniel J. Evans
United States Senate
702 Hart Building
Washington, D.C. 20510

Dear Senator Evans:

Since the Yakima hearing, many people from Washington and other states in the region have expressed a variety of concerns with the current draft of S. 2519.

We believe it is very important to the final version of this legislation that these people be given every opportunity to provide input. Consequently, we urge that you and your staff proceed slowly and cautiously with redrafting and then moving this bill until these individuals have had the opportunity to discuss the legislation with various members of the region's Congressional delegation and to provide their written comments and suggested language changes.

WCA believes that the slow and cautious approach is necessary to insure that the following issues are adequately dealt with:

1. Appropriately strong water rights protection language.

2. Clarification of cost allocations of each project element in the bill.

3. Clarification of whether or not this measure will trigger the full cost repayment requirements of the 1982 amendments to the Reclamation Act.

4. Compensation to irrigators of project waters lost as a result of the Quackenbush decision.

WCA is currently working with others on bill language that would address many of these issues. We will forward it to you once we have it complete.

We thank you for the opportunity to provide further input.

Sincerely,

Donald G. Ricketts

Donald G. Ricketts
Executive Secretary

DR:jb

The Conservation Foundation

July 22, 1986

The Honorable Daniel Evans
702 Hart Senate Office Building
Washington, D.C. 20510

Dear Sen. Evans:

I am writing in support of the approach to fulfilling the water needs of the Yakima River Basin that is embraced in your bill on the Yakima River Basin Water Enhancement Project, S. 2519, and request that these comments be included in the hearing record for S. 2519. More than two years ago I was a member of an advisory team established by the Washington Department of Ecology to advise them on non-structural and low-cost structural alternatives to traditional storage measures in the Yakima Basin. Accordingly, I am delighted to see the creative tack taken in this legislation. The proposals in S. 2519, along with additional actions that are needed to increase the transferability of water rights in the basin within the existing federal project, should enable the basin to meet largely all of its water needs without resort to costly and environmentally damaging new storage projects.

At the least, innovative measures (including but not limited to those proposed in your bill) should be afforded a chance to work and indicate what, if any, the extent of any additional needs might be before taking any action that would involve further new spending and new storage. We at The Conservation Foundation are in the final stages of revising a case study examining the application of similar innovative measures in the Washington, D.C. metropolitan area, where the use of such measures reduced the need for new water supply storage to one small, local project. The success of that approach is being demonstrated at this moment, as the Washington area is easily meeting unprecedented demands in a record-setting drought. While conditions in every area are somewhat different, we believe that this example provides a reassuring signal of hope that other areas can follow.

1255 Twenty-Third Street, NW
Washington, DC 20037
202/293-4800 Telex 64505 PANDA

Affiliated with World Wildlife Fund

The actions proposed in S. 2519 should be adopted and, along with other management innovations, given a chance to see how successfully they meet the water needs of the Yakima Basin before additional structural measures are considered by Congress. We appreciate your consideration of these views.

Sincerely,

Edwin H. Clark, II

Edwin H. Clark II
Vice President

Donald H. Bond
Attorney at Law

Post Office Box 526
Yakima, Washington 98907
(509) 575-6611

July 24, 1986

Senator Daniel J. Evans
828 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Evans:

I am writing this letter on my own behalf rather than on behalf of clients I represent in lawsuits involving water rights in the Yakima River Basin. Those clients will be informed as to what I am undertaking on my own behalf. They must, of course, be made aware of this should it have any affect on my representation of their interests.

Reports on the hearings in Yakima on Tuesday, July 1, on your bill SB 2519 indicated statements made to the effect that under the bill irrigators would be required to pay twice for the same delivery. Certainly, if irrigators are required to pay anything for most of the improvements to be authorized by that bill, there is a significant truth in that statement.

Except for improvements designed to provide additional water to the Roza Irrigation District and the Wapato Indian Irrigation Project, the bill appears to authorize projects which will make more water available for the maintenance and enhancement of fish life. To the extent that irrigators are to be required to pay for these improvements, they will be required to pay more for the use of their already vested irrigation water rights. It was decided by the United States Supreme Court many years ago that irrigators in this basin with vested water rights could not be required to pay for improvements needed to provide water for junior water rights. Ickes v. Fox, 300 U.S. 82 (1937).

The United States is not in a position to contend with any decency that the improvements are needed to fulfill the demands

of senior rights. Early in the history of the Yakima Project, the United States entered into contracts to deliver 1,284,000 acre feet of water pursuant to the Warren Act. Its commitment to fulfill those water rights based upon the Warren Act in effect was a declaration that there were surplus waters in the project which would support the making of those contracts. The Warren Act was adopted February 21, 1911 and in pertinent part provides as follows:

> Whenever in carrying out the provisions of the reclamation law, storage or carrying capacity has been or may be provided in excess of the requirements of the lands to be irrigated under any project, the Secretary of the Interior, preserving a first right to lands and entrymen under the project, is hereby authorized, upon such terms as he may determine to be just and equitable, to contract for the impounding, storage and carriage of water to an extent not exceeding such excess capacity . . . (emphasis added) 43 USC Section 523, 36 Stat. 925.

Now, the United States takes the position that there were in fact no such surplus waters and there is indeed a need to take water from existing users for the use and benefit of the Yakima Indian Nation. The enhancement program is designed to alleviate some of the problems created by this contention.

It is obvious to anyone who thinks about this seriously that if the United States had not disposed of these waters as surplus they would not need now to call upon already hard-pressed farmers to pay the cost of improvements needed for the United States to fulfill its obligation to the Indians, if indeed that obligation does exist. The districts' holding contracts for this 1,284,000 acre feet of "pro ratable" Warren Act water rights are numerous, scattered throughout the basin and include such entities as the Kennewick Irrigation District, Kittitas Reclamation District, Roza Irrigation District, Sunnyside Valley Irrigation District, Yakima-Tieton Irrigation District and Yakima Valley Canal Company.

It appears that the justification for these charges is that the water is to be taken to fulfill an existing Indian treaty water right. As already noted, we cannot reconcile that position with the action of the United States entering into these numerous Warren Act contracts. Furthermore, there is a serious doubt in the minds of many that an unquantified Indian treaty

water right to waters of the Yakima River still exists. In 1913 and 1914 the existence of both the Yakima Indians' treaty fishing right and water right was recognized by Congress. At that time Congress declared that the primary purpose of creation of the Yakima Indian Reservation was to make the Yakimas' into an agrarian people. It, accordingly, allocated water to the tribe as its equitable share of the low water flow of the Yakima River. Act of August 1, 1914, 38 Stat. 582, 604. Later, Congress recognized that because of the further development of the basin by the United States, the amount of water recognized there had become a maximum as well as a minimum and so added to it an additional 100,000 acre feet to fulfill the treaty obligations to the tribe. Act of July 1, 1940, 54 Stat. 707.

If there is any doubt remaining as to the quantification of the tribal water right, any responsible action taken at this time to fulfill Yakima Indian treaty water rights should quantify those water rights. If Congress does not do that, they leave all existing non-Indian water rights in jeopardy of assertion of new and expanded Indian water rights. That risk is real in light of contentions now being made such as that the Indians should have water to lease to non-Indians.

There is, in addition, another open question that should be resolved before the question for enhancement can be said to rest on a stable foundation. That is the extent of the tribal right in an enhanced fish population. In Puget Sound the tribal right is to one-half of the fish or a quantity needed for the Indians to establish a moderate living standard. It seems that in the Yakima Basin and Columbia River the Indian treaty right will extend only to half of the fish population and, perhaps, only half of the water generated for that purpose by the enhancement project. Certainly, it cannot be intended that farmers be required to pay for the enhancement of non-Indian fishing rights.

In other areas, proper approach to similar shifts of water rights has been that existing water users are compensated for conservation measures which produce additional waters. The compensation comes from those who will benefit from the use of those waters. See, for example, the negotiations currently going on between the Metropolitan Water District of Southern California and the irrigators of the Imperial Valley.

In light of all of this it seems that there is certainly no moral obligation and should be no legal obligation on the part of irrigators to pay for any of the improvements involved in

the enhancement project except perhaps where additional water is created for the use and benefit of certain irrigation districts.

Finally, I would urge you to provide in any legislation that water rights be capped except insofar as they may be expandable under Washington State law. This applies to both Indian and non-Indian water rights. If this is not done there will be no security for our children, grandchildren or great grandchildren in the use of water rights in this basin.

The matter is in your hands. I urge that you act in a way that fully and fairly reflects the responsibility of the United States government for its creation of the water problems that threaten the security of this basin.

Very truly yours,

Donald H. Bond

DHB/mjs

①

Sen. Daniel J. Evans
Senate Office Bldg 24 M 10 05
Washington D.C. 20510

Cort Hurlburt
Rt. 2 Box 2358
Zillah, Wa. 98953

Dear Sir.

I would like to pass on a few thoughts on S.B. 2519, Concerning the Yakima River Enhancement, which was discussed in Yakima on July 2.

I am a second generation Roza farmer, my parents broke out a veterans homestead in 1951, so my complete life is tied up with the land, and the water that makes it bloom.

The Federal Government contracted with my parents for the delivery of water, this responsibility should never be forgotten.

Increased storage on the Yakima River is a must, the demands on its water will force us to control the flow, or to plant someones rocks.

I was encouraged to hear of the Forest Service's interest in helping to control run-off, every bit will help.

(5)

The fisheries problem. The history that I was taught told me that overfishing by the commercial fishers had much to do with depleating the native stocks. I do not feel that my water should be taken to repair the fish runs. This includes the release of storage water to maintain fish runs during a dry summer. I know that this sounds radical, but I helped pay for the storage, and I do not think that the government should give away my property. The 70-80,000 acre feet of fish release water could be very damaging to our farm.

Water banking. Or what would I sell all or part of my water for. Our complete farm is in fruit, we currently use our water wisely, so I question how much we could cut back.

The ripple effect on the Valleys economy must be considered, any large acreage cut backs will drive up

unemployment in our area, and be damaging to many businesses. ③

The problem of alkalinity caused by subwater must not be forgotten as we cut back on our water usage.

I do not know what is required to keep the salts washed down.

To a better system

Carl Hulbert

July 18, 1986

Honorable Frank Murkowski, Chairman
Committee on Energy and Natural Resources
Subcommittee on Water and Power
212 Hart Building
Washington DC 20510

Dear Congressman Murkowski:

I would like to take this opportunity to express my views regarding the Yakima River Basin Water Enhancement Project. It is my understanding that the purpose of the Yakima River Basin Water Enhancement Project is basically twofold in nature: (1) to provide instream flows for fish development, rearing, migration, and passage, and, (2) to provide for supplemental irrigation waters. As a taxpayer, I cannot support the use of federal and state funds for such a project until and unless the issues of water conservation and water pollution are addressed (and implemented) into the final activities.

The greatest source of water pollution in the Yakima River Basin is irrigated agriculture. The current methods of irrigation in this area are to a large extent outdated and extremely wasteful, resulting in significant agricultural return flows to the Yakima River. These return flows carry sediment as well as fertilizers and pesticides to the Yakima River. DDT and other pesticides have been detected in significant quantities in water, sediment and fish tissue in the Yakima River. A study conducted by CH$_2$M-Hill in 1974 quantified the magnitude of the water quality problem and made a series of recommendations for improving agricultural practices with regards to water quality. Few, if any, of those recommendations have been implemented. A summary report of this study is included with this letter.

In addition to the CH$_2$M-Hill study, water pollution from irrigated agriculture was studied in this state via Section 208 of the Federal Water Pollution Control Act PL92-500. This law, which required municipalities and industries to reduce their discharge of polluting materials to water of this nation, was also directed at other water pollution sources such as agriculture. Through this act, it was intended that farmers would utilize best management practices to reduce levels of water pollution from their operations.

In the Kittitas Valley, the 208 study approach met with such opposition that no work was ever done. However, work conducted by the Washington State Department of Ecology (Wilson Creek Drainage-Surface and Ground Water Quality July 1978 to July 1979) revealed that a major source, if not the major source, of water pollution in the Kittitas Valley was due

to irrigated agriculture. Further, this study recommended changes in irrigation practices as a method for reducing water pollution in the valley.

Few, if any of those recommendations have been implemented. One has only to drive through the Kittitas Valley, notice the irrigation practices being employed, observe the visual impact of Wilson Creek (major input from agriculture return flows into the Yakima River) where it enters the Yakima River (see attached photo) to realize that not only is water being wasted via archaic irrigation methods but that soil nutrients and chemicals are being washed downstream.

No pollution control measures or best management practices have been required of the irrigators to clean up the waters of the Yakima River Basin. While PL92-500 required municipalities and industries to upgrade their wastewater disposal practices, there has been no similar requirements imposed on the farmers in Eastern Washington to cleanup the single largest source of water pollution in this part of the state. I am firmly opposed to any program which will use federal or state tax dollars to supplement irrigation waters without first studying the irrigation practices with an eye toward water conservation and improved water quality. This Yakima River Basin Water Enhancement Program should do just that; irrigation practices, including delivery systems within each irrigation district should be studied to determine what improvements can be made (such as switching from flood to sprinkle or even to drip), thereby conserving water, reducing runoff, reducing erosion and improving water quality. The financial participation of the federal or state government in any Yakima River Basin Enhancement Project should be contingent upon the study and upgrade of irrigation practices within the irrigation districts.

I am aware of the financial plight that farmers are in today. Yet, they should not be able to ignore their responsibilities with regard to water quality. If tax dollars are to go into the Yakima River Basin Enhancement Project, please include measures for water conservation irrigation improvements and improvements in water quality.

Sincerely,

Harold Porath
Route 4, Box 4366
Selah, Washington 98942

HP:cr

cc: Governor Booth Gardner
Senator Slade Gordon
Senator Dan Evans
State Representative Jim Lewis
State Representative Shirley Doty
State Senator Tub Hansen
State Senator Alex Deccio

WATER RESOURCES INFORMATION SYSTEM

Technical Bulletin No. 8

AGRICULTURAL RETURN FLOW MANAGEMENT IN THE STATE OF WASHINGTON

A Case Study of the Yakima Basin

Prepared by CH_2M Hill

April 1975

PREFACE

This WRIS Technical Bulletin is the summary report of a study of methods of improving the quality of irrigation return flows. The study was done under contract to the Department of Ecology by CH_2M Hill Inc. A copy of the report may be reviewed in the following libraries:

State Library in Olympia

Library of Central Washington State College in Ellensburg

The Water Research Center Library at WSU in Pullman

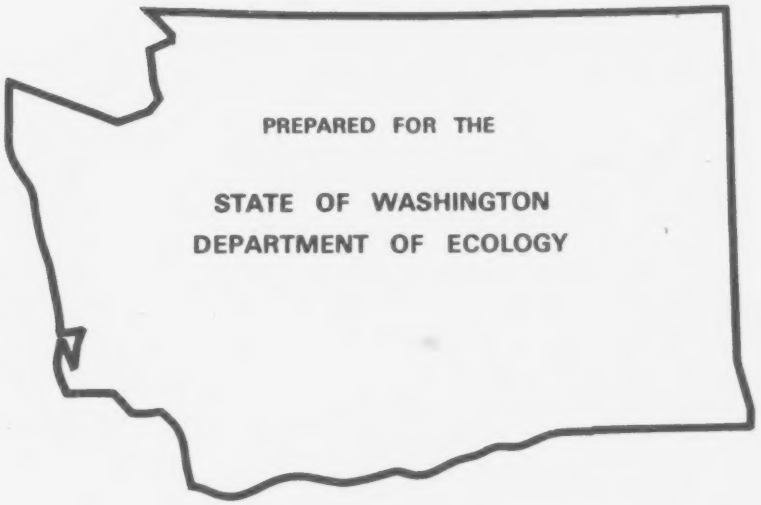
The Library of the Department of Ecology

AGRICULTURAL RETURN FLOW MANAGEMENT

IN THE

STATE OF WASHINGTON

SUMMARY REPORT



PREPARED FOR THE

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

BY

CH2M HILL

APRIL 1975

SUMMARY

Significant improvements have recently been made in controlling and upgrading municipal and industrial waste treatment. With the enactment of Public Law 92-500 in October 1972, attention began to turn to controlling diffuse waste sources. Of special concern in eastern Washington are the wastes from irrigated agriculture, feed lots, dairies, and other agricultural-oriented activities.

The State of Washington's Department of Ecology (DOE) has accepted responsibility from the Environmental Protection Agency (EPA) for administering the National Pollutant Discharge Elimination System (NPDES). The NPDES permit program, created by Public Law 92-500, requires that certain dischargers obtain discharge permits. Application of the NPDES permit program to municipalities, industries, and some other activities is noncontroversial and is similar to the State permit program previously in effect. However, applying the permit program to agricultural activities is complicated due to the lack of information, effluent guidelines, and, particularly, an entity with the legal power to accept the responsibility for irrigation return flows.

In April 1974, the Department of Ecology contracted with CH2M HILL, Inc., to conduct a study with four general objectives:

1. Determine the relative contribution of point and nonpoint sources to water quality degradation in a predominantly agricultural area.

2. Determine alternative methods of reducing or eliminating the addition of wastes from these sources to surface water bodies.

3. Identify institutional constraints on applying the NPDES permit program to return flow management.

4. Recommend methods of applying the NPDES permit program to feed lot and irrigation return flows to result in improved instream water quality.

CH2M HILL conducted the study in three phases. The first phase was a detailed study of the Sulphur Creek Drainage, a subbasin within Washington's Yakima Basin. The second phase was a semidetailed study of the Sunnyside-Roza Area of the Bureau of Reclamation's Yakima Project. In the third phase, the results of the first two phases were applied to the entire Yakima Basin.

The results of this study, presented below, are in three general topics: Water Quality Considerations, Alternative Methods of Reducing Pollution, and Institutional Considerations.

WATER QUALITY CONSIDERATIONS

The effect of agricultural, municipal, and industrial activities on water quality was investigated through a detailed water quality sampling program, measuring flows in numerous

drains, collecting quantity and quality data from various agencies, and field observations. During the basic water quality sampling program, samples were collected and analyzed twice-monthly from five stations on Sulphur Creek and from five stations on the major tributary drains. In addition, approximately 100 samples were collected from various basin locations. The data collected as a result of this sampling program are presented as part of the main report.

The U.S. Bureau of Reclamation, the U.S. Geological Survey, and the State DOE have conducted extensive water quality sampling programs. Results of these programs were used to estimate water quality conditions for other areas of the Yakima Basin. Water quality conditions for the major drains in the Yakima Basin are shown in table 1.

The distribution of irrigation water within the Yakima Basin is through many miles of main canals, and open canal and closed pipeline lateral systems, with mostly gravity diversions to individual farms. Onfarm applications are by flood or rill methods, sprinklers, and a few acres of drip irrigation. The main features of this system are shown on the attached folded map (figure 1).

Onfarm practices, as they affect water quality, range from excellent to poor. The most noticeable effects of farm practices are the large quantity of surface runoff with high concentrations of suspended soil particles. Though this problem was noted in many areas of the basin, it was most prevalent in steeper areas where rill irrigation was practiced. Virtually all water quality samples taken indicated that high phosphate levels occurred whenever high suspended

TABLE I

COMPARISON OF MAJOR DRAINS
IN YAKIMA BASIN
AVERAGE VALUES FOR 1974 IRRIGATION SEASON

MEASURED PARAMETERS		SULPHUR CREEK @ GREEN VALLEY RD.	GRANGER DRAIN @ HIGHWAY 223	SPRING CREEK @ NESS RD.	SNIPES CREEK @ OLD INLAND EMPIRE RD.	WILSON CREEK @ CANYON ROAD	WIDE HOLLOW CREEK @ WASHINGTON AVE.	MOXEE DRAIN @ BIRCHFIELD ROAD	SOUTH DR. @ HIGHWAY 22 NEAR SATUS	MARION DRAIN @ HIGHWAY 97
FLOW (cfs)		310	26	34	40	135	24	32	88	244
TEMPERATURE (°C)		13	15.2	18.5	18.8	13.0	14.6	18.8	14.8	13.3
DISSOLVED OXYGEN (MG/L)		10.8	8.6*	8.1*	8.0*	8.3	8.2	7.4	8.2	8.8
pH (UNITS)		7.8	7.7	7.8	7.8	7.8	8.0	7.7	7.8	7.8
CONDUCTIVITY (MICROMHOS/CM)		281	484	288	183	230	288	372	412	281
BACTERIA	TOTAL COLIFORM (COUNT/100 ML)	35,000	40,000*	1,700*	3,200*	8,500	1,800	-	-	-
	FECAL COLIFORM (COUNT/100 ML)	2,800	1,800*	880*	280*	770	180	-	-	-
COD (MG/L)		13	22	14	18	14	14	17	15	18
NITROGEN -N	NO_3 + NO_2 (MG/L)	1.80	1.84	1.23	0.25	0.38	0.85	0.81	1.84	2.30
	KJELDAHL (MG/L)	0.58	0.80	0.40	0.28	0.42	0.52	0.80	0.81	0.42
PHOSPHATE -P	ORTHO-P (MG/L)	0.15	0.18	0.08	0.03	0.08	0.09	0.18	0.18	0.08
	TOTAL P (MG/L)	0.45	0.54	0.25	0.18	0.15	0.12	0.40	0.22	0.13
SUSPENDED SOLIDS (MG/L)		228	157	87	84	28	13	134	48	28
TURBIDITY (J.T.U.)		73	42	32	27	7	3	38	17	8

* SAMPLES NOT TAKEN OVER WHOLE IRRIGATION SEASON

sediments were present. This is expected since phosphates attach themselves to soil particles. In some areas, the loss of phosphate could amount to over 40 pounds per acre a year.

A serious, but less obvious, problem is the increasing quantities of nitrogen added to the Yakima River. The increasing use of fertilizers has resulted in nearly five-fold increases in nitrate nitrogen in the lower Yakima River in the last 20 years. Unless this trend in reversed, further problems resulting from algal growth may become acute.

Surface runoff from irrigation averages about 25 to 40 percent of the water delivered to the farm for the Sulphur Creek drainage. Much greater amounts occur on the steeper-sloping lands. Problems with runoff and erosion are greatest when slopes exceed about 5 percent.

Approximately 35 to 40 percent of the return flows measured in the study area surface drains are derived from subsurface flows. The percentage is difficult to determine due to the widespread occurrence of subsurface return flows. However, in reviewing flow, nitrate, and dissolved solids data, it would appear that this percent is a good approximation. Flows in lower Sulphur Creek, for instance, dropped from about 250 cfs in August to about 100 cfs in November after irrigation ceased.

Subsurface flows, important because they are typically high in nitrates and dissolved salts, originate as water applied to a field in excess of the plant requirements. This excess is transmitted through the shallow ground water aquifer until it intercepts a drain, stream, or Sulphur Creek.

Nitrates and salts dissolve readily in water and are carried away with the subsurface flows. Estimates indicate that about 30 pounds per acre of nitrogen are discharged from Sulphur Creek each year. Since irrigators typically apply about 150 to 200 pounds of nitrogen fertilizer per acre annually, approximately 20 percent of this is unavailable to the plants.

In addition to being a loss to the farmer, the erosion of valuable topsoil causes other problems. Approximately $65,000 in spent annually clearing sediment from the various drains in the Sulphur Creek drainage. The sediments that remain suspended while water from Sulphur Creek is added to the Yakima River cause increased turbidity and poor aesthetics. The photograph attached at the back of the report shows the effect of Sulphur Creek on the Yakima River. Excessive concentrations of nitrates and phosphates lead to algal growth, particularly after these materials reach the slow-moving waters of the Yakima River. The algal growth and eventual die-off cause low dissolved oxygen levels in the Yakima River.

In summary, the main effects of agricultural activities are high suspended sediment, phosphate, and nitrate concentrations.

The effects of other activities--municipal, domestic, and industrial--are less significant on overall water quality, primarily because of the relative magnitude of flow from these sources. The quality of waters in the DID 3 drain, a major tributary of Sulphur Creek that passes through Sunnyside, is generally poorer than the other drains as measured by higher bacteria counts and oxygen demands. Other parameters compared favorably with the other drains.

The presence of high concentrations of bacteria appears to be widespread in the various drains in the Yakima Basin. Virtually every sample collected showed concentrations in excess of minimum State standards for streams. Based upon the relationship between fecal coliforms and fecal streptococci, it appears that bacteria present in most of the drains are of animal origin. The two drains passing through the city of Sunnyside, however, show indications of contamination of human origin. Total coliforms counts include soil bacteria and are not suggested to be a measure of bacterial contamination.

The operation of any irrigation system cannot be 100 percent efficient. Losses are incurred from operations, evaporation, seepage, etc. Once the water is delivered to the farm, losses occur due to surface runoff and deep percolation. Based upon the data collected and information received from the irrigation districts, operational spills and main canal and lateral losses average about 30 percent of the water diverted. Onfarm efficiencies average about 56 percent based upon the amount of water delivered at the farm headgate.

The efficiencies found result in an overall efficiency of about 40 percent from diversion to crop use. These efficiencies are comparable to those found in similar facilities in the West. Some improvements are possible through better management at little cost to irrigators or irrigation districts. Significant improvements in efficiencies will require substantial expenditures by both the irrigators and the districts.

ALTERNATIVE METHODS OF REDUCING POLLUTION

There are three general ways to improve water quality in an agricultural area. They are:

1. Improve onfarm practices to reduce pollutants added to return flows.

2. Improve distribution efficiencies to allow better use of available supplies.

3. Treat irrigation wastewaters prior to discharge to streams.

To implement these general approaches, several specific alternative methods of improving water quality in the major drains and in the Yakima River have been developed. For each alternative, identifiable capital and annual costs have been estimated, as well as water quality and economic benefits. In some cases, it is not possible to quantify all benefits because many results can only be measured as improvements in water and farm product quality, or ease of operations for the irrigation district. Many alternatives have a significant negative benefits. For example, increased energy is required for pumping stations to replace gravity methods of distributing water.

Based on relative costs and benefits, the alternative methods of reducing pollution fall into three categories, which are listed below. The following sections present alternatives within each category.

1. Those that should be implemented initially.

2. Those that should be implemented after the alternatives in the first category have been implemented and evaluated.

3. Those that do not appear to be beneficial to water quality, are uneconomical to implement, or with marginal water quality benefits but significant benefits to the farm operator.

Alternatives that could and should be implemented initially include:

1. Sprinkler systems should be considered by the farm operator to reduce erosion and runoff for irrigated lands on Yakima Basin slopes steeper than 5 percent.

2. Erosion-control facilities--such as sediment ponds, recirculation ponds, grassed ditches, and collector pipes--should be installed on all land not converted to sprinkler application to reduce the discharge of sediments from individual farms.

3. Where shown to be economical, facilities should be constructed to reuse irrigation return flows.

4. Improvements should be made to the present irrigation delivery systems that can minimize the wastage of water by operational spills.

The following alternatives should be investigated for feasibility after the above have been installed and their improvements assessed:

1. A settling and treatment pond should be constructed in the lower end of the Sulphur Creek drainage for the removal of sediments and nutrients prior to discharge to the Yakima River. Similar facilities could be evaluated for areas in the Wapato Project.

2. Implement modifications in the present delivery systems that will minimize water losses and reduce the diversion requirements for the main canals.

In most cases, large settling and treatment ponds would be an expensive way to improve water quality. However, because of a unique topographic situation at the mouth of Sulphur Creek and on the Wapato Project, this alternative may be suitable for early construction if a method of financing the construction and operation could be found.

The above suggested course of action recognize that the major problems in irrigation return flow are onfarm practices. Though the problems are widespread throughout the Yakima Basin, the major areas of concern are in the steeper portions where flood and rill irrigation is practiced. The implementation of better water application methods will have two major advantages. First, erosion can be controlled, which will reduce sediment deposition problems and the resulting removal of phosphates. Second, with better application methods, application rates should be lower, which should reduce the amount of water (and consequently nitrates) leached below the root zone.

It is unfortunate that the present water rights system does not encourage better management of our water resources. Though water shortages can occur in some years, the Yakima

Basin is basically assured of a firm water supply through its series of upstream reservoirs. Almost all of the alternative methods of reducing total water diversions will result in substantial costs to the irrigation districts and, eventually, the irrigators. Since the entire State of Washington will benefit from water quality improvements resulting from improving water management, ways for the State to share in the cost of implementing these alternatives should be considered. Referendum 27 funds, on a cost-sharing basis, are a distinct possibility. Extensive treatment systems may eventually be the only method of obtaining good quality water. However, there may be no equitable way to recover the high construction and operation costs involved in extensive treatment systems. Consequently, it is recommended that treatment systems be considered only after evaluating results of improved onfarm practices on water quality.

INSTITUTIONAL CONSIDERATIONS

An immediate concern to the Department of Ecology is the implementation of the NPDES permit program. Though the DOE is faced with a deadline for issuing permits, it is obvious that the problem will not be solved just because a permit is written. Therfore, several alternative courses of action are suggested for consideration.

The plan for implementing water quality improvements at the present time is based upon the issuance of a permit to irrigation districts. It is believed that this procedure is not an effective way of getting to the problem. We suggest that the Department of Ecology pursue a course of action with the following features:

1. Recognize that individual farm operations are the significant cause of pollution in irrigation return flows. The strategy should be geared to ways of improving onfarm practices. The initial emphasis should be on the small percentage of farmers responsible for the majority of the problems.

2. The irrigation districts must play a major role in seeking solutions to water quality problems by identifying problem areas, improving water deliveries, and encouraging better water management.

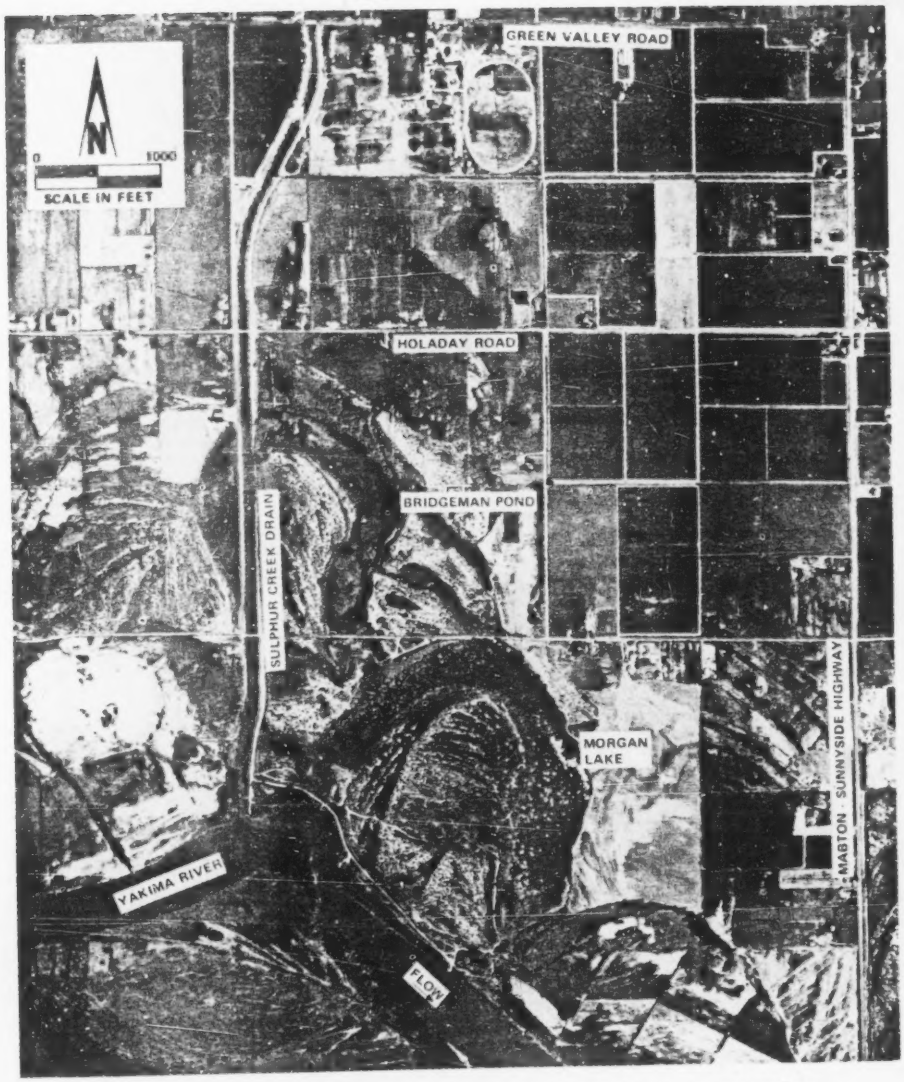
3. Statewide and regional advisory committees could be an effective way to assist the Department of Ecology in developing and implementing a pollution abatement program for irrigated agriculture.

4. The basic approach to improving water quality should be through an education program designed to assist individual farm operators. The Bureau of Reclamation, the Soil Conservation Service, and Washington State University have developed programs encouraging better onfarm water management.

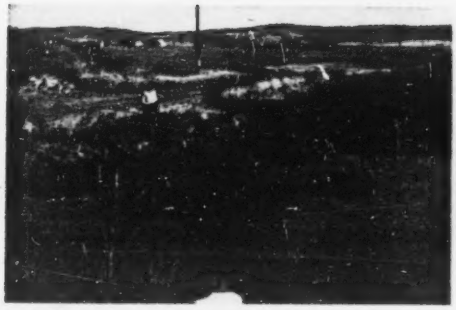
5. Water quality monitoring should be continued and should be designed to measure long-term quality changes. Quantity measurements should be an integral part of all quality measurements.

This approach for improving water quality results in the Department of Ecology being the lead agency in pollution control from irrigated agriculture. The role of irrigation

districts would be a slight expansion of their present roles as water suppliers. The technically-oriented agencies and organizations would be relied upon to provide help to the individual farmer. Advisory groups would assist the DOE in establishing a statewide plan and adapting it to all regions of the state.

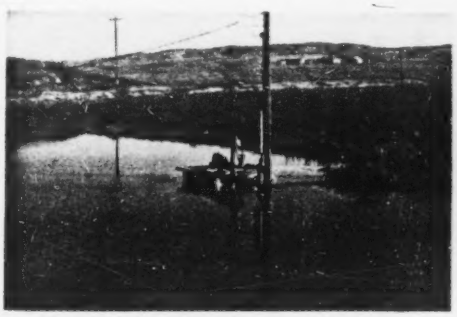


Aerial photograph of Sulphur Creek as it discharges to the Yakima River. The sediment laden Sulphur Creek water produces a visible plume as it mixes with the Yakima River water. Numerous ox bow lakes in the area could possibly be used for sediment removal and treatment of return flow. (Photo taken 24 July 1974)

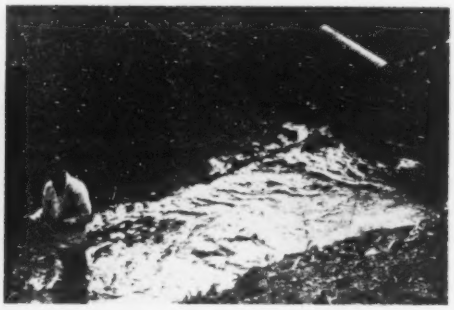


1. Recirculation pond above Roza Canal at Scoon Road. Photo taken 26 June 1974, shows sediment delta forming at the head of the pond.

2. Same pond as in photo number 1, showing growth of sediment delta. Water level in pond (21 August 1974) is approximately 3 inches lower than in photo number 1.



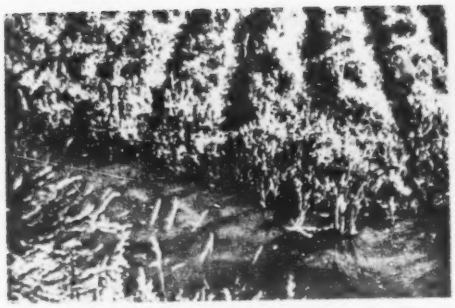
3. Pump platform in same recirculation pond as shown in photo numbers 1 and 2. Alfalfa crop can not grow too near the pond due to high ground water.



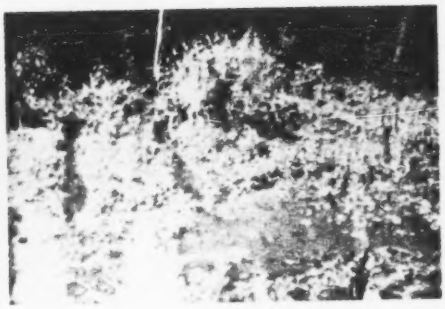
4. Stream flow measurement being made in Washout Drain near Allen Road. Note small discharge from adjacent field through metal pipe.

5. Livestock grazing near Sunnyside Canal. Animals have access to ponded water which was caused by surface runoff from over - irrigation.

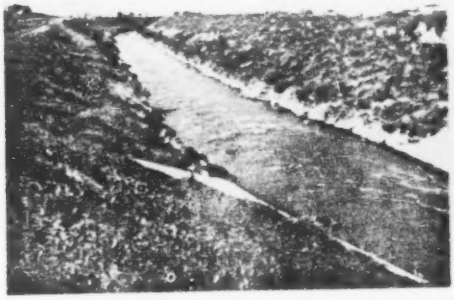
6. Livestock have access to agricultural drain, a common occurrence throughout the Yakima Basin.



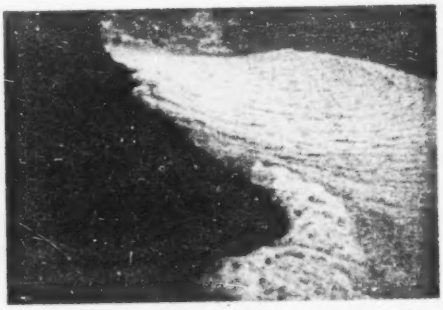
7. Tailwater from alfalfa field shown in photo number 3. Sediment accumulation can be seen in the ponded water.



8. Tailwater ponded at the end of a hopyard.

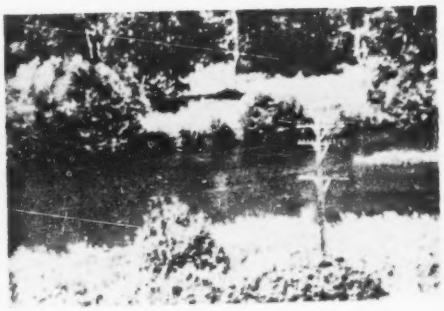


9. Sulphur Creek Drain looking downstream from Duffy Road.



10. Runoff originating in a dairy was the result of heavy rainfall. Foam was formed where runoff entered local drainage system.

11. DID 18 Drain discharging into Sulphur Creek as seen from Edison Road. As much as 60 tons of sediment per day can come from the 4 foot pipe at the flow rate pictured.



12. Wilson Creek discharging into the Yakima River. Note turbid Willson Creek Water (near side) and clear Yakima River water (far side).